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1	IN THE UNITED STATES DISTRICT COURT	1	APPEARANCES
2	FOR THE NORTHERN DISTRICT OF TEXAS	2	
3	DALLAS DIVISION	3	FOR THE PLAINTIFFS:
4	BLANCA VALENZUELA, MARGIE)	4	Ms. Claudia M. Cano
5	SALAZAR, JOSE E. SERRATO,)	5	HEYGOOD, ORR, REYES, PEARSON & BARTOLOMEI
6	JOSIE RENDON, CLARA TOVAR,)	6	2331 W. Northwest Highway, 2nd Floor
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10	MUNOZ, AMANDA SALCIDO,)	10	
11	CANDELARIO G. ORTEGA,)	11	FOR THE DEFENDANTS:
12	MARIA ORTIZ, JOSE OLIVA,)	12	Mr. Brian G. Eberle
13	RAFAELA CHAVEZ, ELODIA)	13	SHERMAN & HOWARD, L.L.C.
14	ARROYO, SUSANA CARDIEL,)	14	633 Seventeenth Street, Suite 3000
15	GRACIE RIOS, AND LEONEL)	15	Denver, Colorado 80202-3622
16	RUIZ, Individually and on)	16	Telephone: (303) 297-2900
17	behalf of all others)	17	E-mail: beberle@shermanhoward.com
18	similarly situated,)	18	
19	Plaintiffs,)	19	ALSO PRESENT:
20		20	Mr. Leonel Ruiz Melendez
21		21	Ms. Linda Foster, Interpreter
22		22	
23		23	
24		24	
25		25	
CIVIL ACTION NO. 3:06-cv-02322-N			
ECF			
ORAL DEPOSITION OF MARIA ORTIZ JULY 10, 2008			
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1	ORAL DEPOSITION OF MARIA ORTIZ, produced as a witness	1	INDEX
2	at the instance of the Defendants and duly sworn, was	2	PAGE
3	taken in the above-styled and numbered cause on the 10th	3	Stipulations ----- 2
4	day of July, 2008, from 10:43 a.m. to 11:41 a.m., before	4	Appearances ----- 3
5	Angie Weaver, Certified Shorthand Reporter in and for the	5	Exhibit Index ----- 4
6	State of Texas, reported by computerized stenotype machine	6	Objections ----- 4
7	at the offices of Mullin, Hoard & Brown, L.L.P., 500 S.	7	WITNESS:
8	Taylor, Suite 800, in the City of Amarillo, County of	8	MARIA ORTIZ
9	Potter, State of Texas, pursuant to the Federal Rules of	9	Examination by MR. EBERLE 5
10	Civil Procedure and the provisions stated on the record or	10	Signature and Changes ----- 30
11	attached hereto.	11	Reporter's Certificate ----- 31
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1 (Ms. Linda Foster sworn as interpreter.)
2 MARIA ORTIZ,
3 having been first duly sworn, testified through the duly
4 sworn interpreter as follows:

5 EXAMINATION

6 BY MR. EBERLE:

7 Q. Could you state your name and spell your last
8 name.

9 A. You want my last name?

10 Q. State your full name, please.

11 A. Maria Ortiz.

12 Q. Can you spell your last name.

13 A. O-R-T-I-Z.

14 Q. And I think you may have heard already, but my
15 name is Brian Eberle, and I am one of the attorneys for
16 Swift, so I'll be asking you some questions today about
17 the litigation.

18 A. Yes.

19 Q. Do you speak any English?

20 A. No. No, I understand a little, but not much.

21 Q. And are you able to read much English?

22 A. Some words.

23 Q. Is it your preference to have documents in
24 English translated for you so that you can read them in
25 Spanish?

1 Q. Do you understand that you have been sworn under
2 oath?

3 A. Yes.

4 Q. And even though this is an informal setting
5 today, do you understand that it's just the same as if you
6 were giving testimony in a court of law?

7 A. Yes.

8 Q. And we can take a break any time that you want,
9 so just let me know if you want to take a break.

10 A. Yes, sir.

11 Q. When did you first start working for Swift at
12 the Cactus, Texas, plant?

13 A. In '87.

14 Q. And when we talk today about the Cactus plant,
15 do you understand that that is the beef processing plant
16 operated by Swift in the areas around Cactus and Dumas,
17 Texas?

18 A. Yes.

19 Q. Now, I understand that you had a deposition
20 taken in a different case sometime in the last two years
21 or so.

22 A. Yes.

23 Q. And I understand from that deposition that you
24 last received wages from Swift on February 10, 2003. Does
25 that sound right?

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1 A. In Spanish.

2 Q. As you know, we have an interpreter here today,
3 and I'm going to ask questions in English and Ms. Foster
4 will interpret them for you into Spanish, and then your
5 answer will be in Spanish and she will interpret it back
6 into English.

7 A. Yes, sir.

8 Q. And I just want to review a few procedural
9 rules. One is that we cannot talk at the same time. We
10 need to wait for each other to finish before the other one
11 speaks. Is that okay?

12 A. Yes.

13 Q. And even if you think you understand a question
14 in English, it will be easier if you allow Ms. Foster to
15 interpret in Spanish and then all of your answers will be
16 in Spanish, if that's okay.

17 A. In Spanish, yes.

18 Q. And all of your answers need to be verbal, in
19 other words, yes or a no or in words. Is that okay?

20 A. Yes.

21 Q. And whenever I ask a question, I will assume
22 that you understand it unless you tell me otherwise. So
23 if for any reason you don't understand a question I'm
24 asking, will you let me know.

25 A. Yes.

1 A. Yes.

2 Q. Did you ever return to work at Swift after
3 February 10, 2003?

4 MS. CANO: You mean as an employee?

5 MR. EBERLE: As an employee.

6 A. For Swift, no.

7 Q. And I also understand that you were injured
8 while working at Swift in around February of 2001; is that
9 right?

10 A. Yes.

11 Q. Can you tell me what jobs you worked at Swift
12 after your injury in February of 2001.

13 A. Well, I was in New Mexico taking care of my
14 mother.

15 Q. No, I'm talking about after you were injured in
16 February of 2001, what work you did between then and
17 February 10, 2003.

18 A. You're talking about the plant?

19 Q. Yes.

20 A. Are you referring to the last job?

21 Q. Why don't we start with the first job after your
22 injury, whatever that was there at the plant.

23 A. The first job? I was never removed from where I
24 was.

25 Q. And what were you doing?

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1 A. I was ticketing the ears.
2 Q. Let me back up. I want to know, after you were
3 injured in February of 2001, between that time and when
4 you left working at Swift, what work did you do?
5 A. Okay. Well, I was making -- well, we were
6 making gloves.
7 Q. And was that for the whole two-year time, then?
8 A. During those two years? No.
9 Q. What did you do after doing gloves, if anything?
10 A. After the gloves? After that, I was sent home.
11 Q. And that was in February of 2003?
12 A. Yes.
13 Q. Were you a member of a union during the time you
14 were working at Swift?
15 A. Yes.
16 Q. And I understand you were born in Mexico.
17 A. Yes, I was born in Mexico.
18 Q. When did you move to the United States?
19 A. In '75.
20 Q. And I believe you were naturalized as a United
21 States citizen.
22 A. Yes.
23 Q. And when was that?
24 A. In '81.
25 Q. Did you review any documents to prepare for your

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1 appears at the top of the first page of Exhibit 1?
2 A. Yes, sir.
3 Q. And that's your name there?
4 A. Yes, sir.
5 Q. And on the right side of the first page, is that
6 your handwriting as well?
7 A. Where are we talking about?
8 Q. On the very right -- the right side of the page,
9 is that your handwriting?
10 A. I don't see my handwriting on this.
11 Q. If you'd go to the second page of Exhibit 1,
12 does your signature appear on that page?
13 A. Here I do.
14 Q. Okay. And you're pointing at the written
15 language in sort of the middle of the page, on the left?
16 A. Yes.
17 Q. Now, I notice that there's not a date on the
18 second page of Exhibit 1. Do you remember approximately
19 when you would have signed this document?
20 A. No, I don't recall it.
21 Q. Do you remember where you were when you signed
22 it?
23 A. Well, I don't recall that.
24 Q. Could you have been at your home or at the
25 attorneys' office?

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1 deposition today?
2 A. No.
3 Q. And did you meet with anyone, other than your
4 attorney, to prepare for today?
5 A. No.
6 Q. And other than your attorney who is present
7 today, are there any other attorneys representing you and
8 the proposed class in this case?
9 A. No, not another person.
10 Q. No one besides the attorney that's here today?
11 A. No. No one else.
12 MS. CANO: Well, the law firm. There are
13 others that are actually -- also have appeared in the
14 case.
15 A. That's correct.
16 MR. EBERLE: Let me go off the record for
17 just a second.
18 (Discussion off the record.)
19 (Deposition Exhibit No. 1 marked for
20 identification.)
21 Q. (BY MR. EBERLE) Do you prefer if I call you
22 Ms. or Mrs.?
23 A. Mrs.
24 Q. Mrs. Ortiz, let me hand you what's been marked
25 as Deposition Exhibit 1. Is it your handwriting that

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1 A. I'd say it was with my attorneys.
2 Q. But you're not sure?
3 A. No.
4 Q. Did you ask to have this Exhibit 1 provided to
5 you in Spanish?
6 A. In Spanish? I don't recall it.
7 Q. In the lower right portion of the second page of
8 Exhibit 1, there's a law firm name, the Heygood firm. Do
9 you see that?
10 A. It's an attorney's name?
11 Q. Yes.
12 A. Yes. Yes.
13 Q. And how did you hear about the Heygood law firm?
14 A. How did I become aware of it?
15 Q. Yes.
16 A. I don't recall that.
17 Q. Before you signed Exhibit 1, do you recall
18 having any communications with anyone from the Heygood law
19 firm?
20 A. Yes.
21 Q. And approximately when would that have been?
22 A. Well, it was about a little over a year.
23 Q. Without telling me what was said, can you tell
24 me approximately how many communications you may have had.
25 MS. CANO: Objection, form. Are we agreed

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1 that objection to form will cover all form objections
2 except as to privilege and responsiveness?
3 MR. EBERLE: That's fine.
4 MS. CANO: Thank you.
5 Q. Let me ask the question again. Without telling
6 me the specific communications, approximately how many
7 times did you have communications with someone from the
8 Heygood law firm before you signed Exhibit 1, if you remember?
9 A. I don't recall it.
10 Q. And do you recall who at the Heygood law firm
11 you communicated with?
12 A. From this law firm, this one here?
13 Q. Yes.
14 A. Are we -- was it a Mr. Reyes, the attorney
15 Reyes?
16 MS. CANO: Based on what you remember. If
17 you don't know, just tell him you don't know.
18 A. I don't recall it.
19 Q. Before you signed Exhibit 1, did you contact any
20 other attorneys about representing you and the proposed
21 class in this case?
22 A. No.
23 Q. Have you ever checked any references for any of
24 the attorneys at the Heygood law firm?
25 A. Could you repeat the question.

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1 Q. Yes. Have you ever checked any references for
2 any attorneys at the Heygood law firm?
3 A. The references? I don't understand that.
4 Q. Okay. In other words, did you attempt to check
5 what types of work or what quality lawyers worked at the
6 Heygood law firm?
7 A. No.
8 Q. Do you know what experience the attorneys at the
9 Heygood law firm have in class actions?
10 MS. CANO: Objection, form. Objection,
11 relevance of that question.
12 THE REPORTER: I'm sorry. I didn't hear
13 you.
14 MS. CANO: Objection to the relevance of
15 that question. As a matter of fact, I'm going to instruct
16 you not to answer that question. I don't think it's
17 relevant to any issue in this matter.
18 MR. EBERLE: So it's your position that the
19 experience of the Heygood law firm in class actions is
20 irrelevant to the Court's determination of class
21 certification?
22 MS. CANO: I think that your questioning
23 her about that is not relevant.
24 MR. EBERLE: Well, she's a class
25 representative, so our position is that her knowledge or

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1 lack thereof about the experience of the Heygood law firm
2 in class actions is relevant.
3 MS. CANO: Well, you can rephrase your
4 question, then, and I'll consider it again.
5 Q. Well, my question was: Do you know what
6 experience the attorneys at the Heygood law firm have in
7 class actions?
8 MS. CANO: That's fine. You can answer.
9 A. No.
10 Q. Do you know what types of legal work the
11 attorneys at the Heygood law firm do?
12 A. I don't know how to answer that question.
13 Q. Do you know what types of work they do at the
14 Heygood law firm?
15 A. Well, no.
16 Q. Are you aware of any of the costs associated
17 with this class action?
18 A. No.
19 Q. Do you understand whether you are responsible
20 for paying any of the costs associated with this class
21 action?
22 A. No.
23 Q. Do you know whether your attorneys in this case
24 have hired any expert witnesses?
25 A. No, sir.

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1 Q. Do you know how much has been paid by your
2 attorneys to any expert witnesses?
3 A. No.
4 Q. Do you know how much it might cost to provide
5 notice of this class to class members?
6 A. No.
7 Q. What is your understanding of the claims you are
8 asserting in this case on behalf of yourself and the
9 class?
10 A. I don't know.
11 Q. Do you know whether a class certification motion
12 has been filed?
13 A. No, I don't know.
14 Q. What is your understanding of the people who are
15 members of the proposed class in this case?
16 A. I don't understand.
17 Q. There is a class being proposed in this case.
18 Do you understand that?
19 A. No.
20 Q. Do you understand that you have been proposed as
21 a class representative?
22 A. I have?
23 Q. Yes.
24 A. No.
25 Q. So I take it you don't know whether you have any

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1 responsibilities to any of the other members of the class?

2 A. Could you repeat that, please.

3 Q. Yes. Do you know whether you have any
4 responsibilities to other members of the class in this
5 case?

6 A. No, I don't know.
7 (Deposition Exhibit No. 2 marked for
8 identification.)

9 Q. I'm handing you what's been marked as Exhibit 2.
10 Have you ever seen this document before?

11 A. I don't recall it.

12 Q. Has Exhibit 2 ever been translated into Spanish
13 for you?

14 A. No.

15 Q. One of the defendants named on the first page of
16 Exhibit 2 is Hicks, Muse, Tate & Furst. Do you know who
17 that is?

18 A. I don't understand.

19 Q. If we look at the front page, one of the
20 defendants is Hicks, Muse, Tate & Furst. Do you know what
21 that company is?

22 A. What company? Swift Company.

23 Q. Okay. And how is that company related to Swift,
24 if you know?

25 A. I don't understand.

1 Q. You've been handed what's been marked as

2 Exhibit 3, and this is a First Amended Complaint that I'll
3 represent was filed on December 28, 2006. Do you recall
4 ever seeing a copy of Exhibit 3 before?

5 A. A copy of it?

6 Q. Yes.

7 A. I don't recall it.

8 Q. Do you recall whether Exhibit 3 was ever
9 translated into Spanish for you?

10 A. I don't recall it.

11 Q. Do you know what changes were made, if any,
12 between Exhibit 3, the First Amended Complaint, and
13 Exhibit 2, the Original Complaint?

14 A. I don't know.

15 Q. And on Exhibit 3, there's another defendant
16 named HM Capital Partners of Dallas, LLC. Do you see
17 that?

18 A. Yes.

19 Q. What do you know about HM Capital Partners, if
20 anything?

21 A. I don't know.

22 Q. Do you know whether or not HM Capital Partners
23 has been dismissed as a defendant in this case?

24 A. I don't know.

25 (Deposition Exhibit No. 4 marked for

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1 Q. Obviously, Hicks Muse is different than Swift,
2 and I just wanted to know if you know what the
3 relationship is between those two companies.

4 MS. CANO: Objection, form.

5 A. I don't know.

6 Q. Do you know what claims are being asserted
7 against Hicks Muse in this litigation?

8 A. I don't understand.

9 Q. Well, Hicks Muse is named as a defendant. Do
10 you see that?

11 A. Yes.

12 Q. And my question is: Do you know what claims are
13 being asserted against that company? What did they do
14 wrong, if anything?

15 A. Well, it's just that they have had people that
16 are undocumented.

17 Q. And what is wrong with that?

18 MS. CANO: Objection, form.

19 A. It's just that those of us that do have
20 documents have been fired.

21 Q. Do you know whether or not Hicks Muse has been
22 dismissed as a defendant in this case?

23 A. I don't know.

24 (Deposition Exhibit No. 3 marked for
25 identification.)

1 identification.)

2 Q. You've been handed what's been marked as
3 Exhibit 4. This is a Plaintiffs' Second Amended Complaint
4 that was filed on March 14, 2008. Have you ever seen
5 Exhibit 4 before?

6 A. I don't -- I don't recall it.

7 Q. And has Exhibit 4 ever been translated into
8 Spanish for you?

9 A. I don't recall it.

10 Q. And do you know what changes, if any, were made
11 between Exhibit 4, which is the Second Amended Complaint,
12 and Exhibit 3, which was the First Amended Complaint?

13 A. I don't know.

14 Q. When you were working at Swift, were you aware
15 of any information that Swift had hired anyone at the
16 Cactus plant who was not legally authorized to work in the
17 United States?

18 MS. CANO: Objection, form.

19 A. I'm not sure I understand.

20 Q. Well, let's start with when you stopped working
21 for Swift, which was, I believe, February 10, 2003,
22 correct?

23 A. Yes.

24 Q. So prior to that time, while you were working
25 for Swift, did you know any information about Swift hiring

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1 employees who were not legally authorized to work in the
2 United States?

3 A. It was said that there were some people that
4 were undocumented.

5 Q. And this was while you were working at Swift?

6 A. Yes.

7 Q. And who was it that said this?

8 A. These were just rumors that we heard there.

9 Q. And what, if anything, in more detail can you
10 tell me about those rumors?

11 A. Well, that was it, that there were just some
12 people that didn't have documents. I didn't know names.

13 Q. That was going to be my next question. Did you
14 know by nationalities, for example, people from Guatemala
15 or other areas, that those people were rumored to be
16 undocumented?

17 A. They would just say that they were from
18 everywhere.

19 Q. Who is the "they" that was saying this?

20 A. These were the rumors that were going on in the
21 plant.

22 Q. Do you recall any specific conversations with
23 other Swift employees about that subject?

24 A. I don't recall it.

25 Q. When you were working at Swift, were you aware

1 helped any workers to obtain false documents relating to
2 their identity or immigration status?

3 A. It was said that they were helping them, but I
4 wouldn't know who was.

5 Q. And who said that?

6 A. These were the rumors that were going on in the
7 plant.

8 Q. And do you recall any specific conversations
9 with anyone regarding that subject?

10 A. No.

11 Q. And can you identify or name any workers at the
12 Swift plant who were given false documents by Swift?

13 A. No, I don't recall names.

14 MS. CANO: Could you repeat that last
15 question. I'm sorry.

16 (The record was read as requested.)

17 MS. CANO: I'm sorry. Go ahead. Thank
18 you.

19 Q. And your answer is you can't identify them by
20 name?

21 A. That I can't.

22 Q. Is it because you don't recall or that you never
23 knew any specific names?

24 A. I never knew of any name.

25 Q. Backing up to my earlier question about rumors

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1 of any information that Swift had hired anyone at its
2 plants other than in Cactus, Texas, who were not legally
3 authorized to work in the United States?

4 A. No.

5 Q. And I think you said you started working at
6 Swift -- was it 1987?

7 A. '87, yes.

8 Q. From 1987 until February 10, 2003, were there
9 any immigration raids by government authorities that took
10 place at Cactus' plant?

11 A. While I was there?

12 Q. Yes.

13 MS. CANO: Objection, form.

14 A. No.

15 Q. When you were working at the plant in Cactus for
16 Swift, to your knowledge, did any immigration raids by
17 government authorities take place at any Swift plants
18 other than Cactus?

19 A. I don't know.

20 Q. And when you were working at the Swift plant in
21 Cactus, were you aware of any immigration raids planned by
22 government authorities at the Cactus plant?

23 A. I don't know.

24 Q. When you were working for Swift at the plant in
25 Cactus, were you aware of any information that Swift had

1 that Swift had hired undocumented workers, is it the same
2 that you don't know -- excuse me -- that you never knew
3 any specific people who worked at Swift that did not have
4 proper documentation?

5 A. No, I wasn't aware of -- I didn't -- I didn't
6 know of any. This was -- this was what was being said.

7 Q. But you never knew any specific names of Swift
8 workers who were not properly documented?

9 A. No, I didn't know any. And there were a lot
10 of -- we were a lot of people working there.

11 Q. And while you were working at the Swift plant in
12 Cactus, were you aware of any information that Swift
13 provided illegal immigrants with advice on how to avoid
14 detection by government authorities?

15 A. No.

16 Q. When you were working for Swift, were you aware
17 of any information that Swift provided illegal immigrants
18 with advice on how to be hired or rehired despite their
19 illegal immigrant status?

20 A. No, I don't know.

21 Q. And the only Swift plant that you worked at was
22 the one in Cactus, correct?

23 A. Cactus, yes, sir.

24 Q. Do you have any information about the hiring
25 practices at any of Swift's other plants besides Cactus?

Page 25

1 A. I don't know.
2 Q. While you were working for Swift, did you
3 believe that your wages had been reduced because Swift had
4 hired illegal immigrants at the Cactus plant?
5 A. Could you repeat that question again.
6 Q. Yes. While you were working at Swift, did you
7 believe that your wages had been reduced because Swift had
8 hired illegal immigrants at the Cactus plant?
9 A. I don't know how to answer. I don't know what
10 that word means.
11 Q. Which word don't you understand?
12 A. About the money you said was being --
13 Q. Let me try again. While you were working for
14 Swift, did you believe that you were paid less per hour
15 because Swift had hired illegal immigrants?
16 A. Well, I don't know.
17 Q. Do you believe that today?
18 A. Well, I don't know.
19 Q. While you were working at Swift, did you hear
20 any other employees say that they thought they were being
21 paid less because Swift had hired illegal immigrants?
22 A. Well, I don't know. It was -- it was rumored
23 that they were paying illegal aliens less.
24 Q. And do you remember any specific conversations
25 with anyone about that subject?

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1 A. No.
2 Q. But these rumors were taking place while you
3 were working at Swift?
4 A. Yes.
5 Q. And were these rumors occurring during the
6 entire time you were working at Swift?
7 A. Yes.
8 Q. But you can't tell me anything more specific
9 about that?
10 MS. CANO: Objection, form.
11 A. No.
12 Q. While you were working at Swift, did you believe
13 that your hourly rate was lower because Swift had harbored
14 any illegal immigrants at the Cactus plant?
15 MS. CANO: Objection, form, and objection
16 just to the portion of the translation as to harbor. I
17 believe that the translation is a little bit different,
18 but -- if you could rephrase it, that might help clear up
19 the harbor.
20 MR. EBERLE: Well, why don't we go off the
21 record for a second.
22 (Discussion off the record.)
23 Q. (BY MR. EBERLE) While you were working for
24 Swift, did you believe that your pay was less because
25 Swift had provided false documents to any illegal

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1 immigrants?
2 A. I don't know.
3 Q. And while you were working for Swift, did you
4 believe that your pay was less because Swift had helped
5 illegal immigrants avoid detection by government
6 authorities?
7 A. I don't recall it.
8 Q. And while you were working for Swift, did you
9 believe that your pay was less because Swift had provided
10 advice to illegal immigrants on how to be hired or rehired
11 at the Cactus plant?
12 A. I don't know.
13 Q. So you were no longer being paid by Swift after
14 February 10, 2003. We talked about that before, correct?
15 A. I wasn't.
16 Q. And so after you stopped working at Swift, did
17 you receive any information that Swift had hired illegal
18 immigrants at the Cactus plant?
19 A. That's what was being said.
20 Q. And again, do you recall any specific
21 conversations with anyone about that subject?
22 A. No.
23 Q. And after you were no longer working at the
24 Swift plant, did you receive any information that Swift
25 had assisted illegal immigrants in obtaining false

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1 documents?
2 A. Well, that's what they said.
3 Q. And again, were these just rumors?
4 A. These were rumors.
5 Q. And you can't tell me any specific conversation
6 that you had with anyone regarding that?
7 A. No.
8 Q. And you can't identify any specific individuals
9 who were provided false documents by Swift?
10 A. No.
11 Q. And after you were no longer working at Swift,
12 did you have any information about whether Swift had hired
13 illegal immigrants at any plants other than in Cactus?
14 A. No.
15 MR. EBERLE: Why don't we take a break.
16 We've been going for about an hour.
17 (Recess from 11:29 a.m. to 11:39 a.m.)
18 Q. (BY MR. EBERLE) Going back to Exhibit 1, which
19 was the agreement you signed with the law firm, my
20 question doesn't relate to the actual document, but after
21 you signed Exhibit 1, have you had any communications with
22 the Heygood law firm? Don't tell me the substance of
23 them, just whether or not you've had any.
24 A. With this attorney?
25 Q. Well, with anyone from that law firm.

Page 29

Page 31

1 A. By communication, you're talking if we have
2 spoken?
3 Q. Yes.
4 A. With them, with Reyes.
5 Q. And when did those conversations take place, if
6 you remember?
7 MS. CANO: Objection, form.
8 A. I don't recall it.
9 Q. Have you received any documents in the mail or
10 otherwise from the Heygood law firm regarding this case?
11 A. I don't recall it, but no.
12 MR. EBERLE: I think that's all I have.
13 Thank you.
14 MS. CANO: We'll reserve our questions.
15 (End of Proceedings.)
16
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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION
4 BLANCA VALENZUELA, MARGIE)
5 SALAZAR, JOSE E. SERRATO,)
6 JOSIE RENDON, CLARA TOVAR,)
7 CONSUELO ESPINO, MARIA)
8 AVILA, ERNESTINA)
9 NAVARRETTE, MARIA E.)
10 MUNOZ, AMANDA SALCIDO,)
11 CANDELARIO G. ORTEGA,)
12 MARIA ORTIZ, JOSE OLIVA,)
13 RAFAELA CHAVEZ, ELODIA)
14 ARROYO, SUSANA CARDIEL,)
15 GRACIE RIOS, AND LEONEL)
16 RUIZ, Individually and on)
17 behalf of all others)
18 similarly situated,)
19
20
21 Plaintiffs,)
22
23 vs.)
24
25 SWIFT BEEF COMPANY, INC.)
D/B/A SWIFT COMPANY,)
SWIFT & COMPANY, HICKS,)
MUSE, TATE & FURST, INC.,)
HM CAPITAL PARTNERS OF)
DALLAS, LLC, and JOHN)
DOES I-V,)
Defendants.)

CIVIL ACTION NO.
3:06-cv-02322-N
ECF

18 REPORTER'S CERTIFICATION
19 ORAL DEPOSITION OF MARIA ORTIZ
20 JULY 10, 2008
21 I, ANGIE WEAVER, Certified Shorthand Reporter in and
22 for the State of Texas, hereby certify to the following:
23 That the witness, MARIA ORTIZ, was duly sworn by the
24 officer and that the transcript of the oral deposition is
25 a true record of the testimony given by the witness and

Page 30

Page 32

1 CHANGES AND SIGNATURE
2 PAGE LINE CHANGE REASON
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 I, MARIA ORTIZ, have read the foregoing deposition
10 and hereby affix my signature that same is true and
11 correct, except as noted above.
12
13 _____
14 STATE OF _____ MARIA ORTIZ
15 COUNTY OF _____
16 Before me, _____, on this day
17 personally appeared MARIA ORTIZ, known to me or proved to
18 me on the oath of _____ or through
19 _____ (description of identity card
20 or other document) to be the person whose name is
21 subscribed to the foregoing instrument and acknowledged to
22 me that he/she executed the same for the purpose and
23 consideration therein expressed.
24
25 Given under my hand and seal of office on this
____ day of _____, 2008.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

1 any exhibits marked as evidence.
2 That the deposition transcript was submitted on
3 _____, 2008 to the witness or to the attorney
4 for the witness for examination, signature, and return to
5 me by _____, 2008.
6 That the amount of time used by each party at the
7 deposition is as follows:
8 MR. BRIAN G. EBERLE - (00:47)
9 That pursuant to information given to the deposition
10 officer at the time said testimony was taken, the
11 following includes all parties of record:
12 Ms. Claudia M. Cano, Attorney for Plaintiffs
13 Mr. Brian G. Eberle, Attorney for Defendants
14 I further certify that I am neither counsel for,
15 related to, nor employed by any of the parties in the
16 action in which this proceeding was taken, and further
17 that I am not financially or otherwise interested in the
18 outcome of this action.
19 Certified to by me on this _____ day of
20 _____, 2008.
21
22
23 ANGIE WEAVER, CSR
24 Texas CSR #4450 (Exp. 12/31/08)
25 Firm No. 23
AMARILLO COURT REPORTING, INC.
P. O. Box 19628
Amarillo, Texas 79114
(806) 374-4091

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CHANGES AND SIGNATURE

PAGE LINE CHANGE/ADDITION REASON

21 3 In addition, a man who was employed e
SWIFT during the time I was also employed told me
he was from Guatemala and illegal. I do not
remember his name.

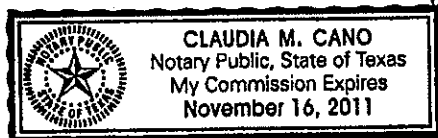
I, MARIA ORTIZ, have read the foregoing deposition
and hereby affix my signature that same is true and
correct, except as noted above.

Maria Ortiz
MARIA ORTIZ

STATE OF TEXAS)
COUNTY OF MOORE)

Before me, CLAUDIA M. CANO, on this day
personally appeared MARIA ORTIZ, known to me or proved to
me on the oath of _____ or through
_____ (description of identity card
or other document) to be the person whose name is
subscribed to the foregoing instrument and acknowledged to
me that he/she executed the same for the purpose and
consideration therein expressed.

Given under my hand and seal of office on this
6th day of August, 2008.



[Signature]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires: 11-16-11

Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF TEXAS 3 DALLAS DIVISION 4 BLANCA VALENZUELA, MARGIE) 5 SALAZAR, JOSE E. SERRATO,) 6 JOSIE RENDON, CLARA TOVAR,) 7 CONSUELO ESPINO, MARIA) 8 AVILA, ERNESTINA) 9 NAVARRETTE, MARIA E.) 10 MUNOZ, AMANDA SALCIDO,) 11 CANDELARIO G. ORTEGA,) 12 MARIA ORTIZ, JOSE OLIVA,) 13 RAFAELA CHAVEZ, ELODIA) 14 ARROYO, SUSANA CARDIEL,) 15 GRACIE RIOS, AND LEONEL) 16 RUIZ, Individually and on) behalf of all others) similarly situated,) 11 Plaintiffs,) 12 vs.) 13 SWIFT BEEF COMPANY, INC.) 14 D/B/A SWIFT COMPANY,) 15 SWIFT & COMPANY, HICKS,) 16 MUSE, TATE & FURST, INC.,) HM CAPITAL PARTNERS OF) DALLAS, LLC, and JOHN) DOES I-V,) 17 Defendants.) 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">CIVIL ACTION NO. 3:06-cv-02322-N</p> <p style="text-align: center;">ECF</p> <p style="text-align: center;">ORAL DEPOSITION OF LEONEL RUIZ MELENDEZ JULY 10, 2008</p>	<p>1 APPEARANCES 2 3 FOR THE PLAINTIFFS: 4 Ms. Claudia M. Cano 5 HEYGOOD, ORR, REYES, PEARSON & BARTOLOMEI 6 2331 W. Northwest Highway, 2nd Floor 7 Dallas, Texas 75220 8 Telephone: (214) 526-7900 9 E-mail: cano@reyeslaw.com 10 11 FOR THE DEFENDANTS: 12 Mr. Brian G. Eberle 13 SHERMAN & HOWARD, L.L.C. 14 633 Seventeenth Street, Suite 3000 15 Denver, Colorado 80202-3622 16 Telephone: (303) 297-2900 17 E-mail: beberle@shermanhoward.com 18 19 ALSO PRESENT: 20 Ms. Maria Ortiz 21 Ms. Linda Foster, Interpreter 22 23 24 25</p>
Page 2	Page 4
<p>1 ORAL DEPOSITION OF LEONEL RUIZ MELENDEZ, produced as 2 a witness at the instance of the Defendants and duly 3 sworn, was taken in the above-styled and numbered cause on 4 the 10th day of July, 2008, from 11:44 a.m. to 1:18 p.m., 5 before Angie Weaver, Certified Shorthand Reporter in and 6 for the State of Texas, reported by computerized stenotype 7 machine at the offices of Mullin, Hoard & Brown, L.L.P., 8 500 S. Taylor, Suite 800, in the City of Amarillo, County 9 of Potter, State of Texas, pursuant to the Federal Rules 10 of Civil Procedure and the provisions stated on the record 11 or attached hereto. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 INDEX 2 3 Stipulations ----- 2 4 Appearances ----- 3 5 Exhibit Index ----- 4 6 Objections ----- 4 7 WITNESS: 8 LEONEL RUIZ MELENDEZ 9 Examination by MR. EBERLE 5 10 Examination by MS. CANO 37 11 Further Examination by MR. EBERLE 39 12 Signature and Changes ----- 40 13 Reporter's Certificate ----- 41 14 15 EXHIBITS 16 EXHIBIT DESCRIPTION PAGE 17 5 Attorney Employment Contract 12 18 19 OBJECTIONS 20 21 By Ms. Cano 19 17 22 By Ms. Cano 20 15 23 By Ms. Cano 24 6 24 By Ms. Cano 26 24 25 By Ms. Cano 28 11 By Ms. Cano 28 20 By Ms. Cano 36 18 25</p>

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Page 7

1 (Ms. Linda Foster sworn as interpreter.)
2 LEONEL RUIZ MELENDEZ,
3 having been first duly sworn, testified through the duly
4 sworn interpreter as follows:

5 EXAMINATION

6 BY MR. EBERLE:

7 Q. Can you please state your full name.
8 A. Leonel Ruiz Melendez.
9 Q. And can you spell your last name, please.
10 A. R-U-I-Z.
11 Q. And, Mr. Ruiz, do you speak any English?
12 A. No. No. Very little. No, sir.
13 Q. And are you able to read any English?
14 A. No.
15 Q. Is it your preference to have documents in
16 English translated for you so that you can read them in
17 Spanish?
18 A. That's correct.
19 Q. And I believe we talked about this, or at least
20 I understood it perhaps in Spanish off the record, that
21 I'm going to ask you questions in English, Ms. Foster will
22 interpret them for you into Spanish, and then you will
23 answer the questions in Spanish, and she will interpret
24 them into English so that the court reporter can write
25 them down. Is that okay?

1 were giving testimony in a court of law?

2 A. Yes. Correct.

3 Q. And we can take a break any time if you need
4 one, so just let me know.

5 A. Yes. Correct.

6 Q. When did you first start working for Swift at
7 its Cactus plant?

8 A. It was May the 1st, 1985.

9 Q. And when we talk today about the Cactus, Texas,
10 plant, do you understand that that is the beef processing
11 plant operated by Swift in the area around Cactus and
12 Dumas, Texas?

13 A. Yes. Correct.

14 Q. And you had your deposition taken in another
15 lawsuit against Swift previously, correct?

16 A. Yes. Correct.

17 Q. And I understand from that deposition that the
18 last day you received wages from Swift was January 24,
19 2003; is that right?

20 A. January 24th?

21 Q. 2003.

22 A. No. No.

23 Q. What do you recall about when you last were paid
24 by Swift to work at its Cactus plant?

25 A. Well, it was from September to the present.

Page 6

Page 8

1 A. Yes. Yes, that's correct.
2 Q. And a few procedural rules. One is that only
3 one of us may speak at a time, so we may need to pause
4 periodically to make sure we don't talk over each other.
5 Is that okay?
6 A. Yes. Yes, that's correct.
7 Q. And even if you think you understand a question
8 I'm asking in English, Ms. Foster will interpret all
9 questions into Spanish and you should always answer in
10 Spanish. Okay?
11 A. Yes, that's correct.
12 Q. And we also need to have all of your answers be
13 verbal, in other words, a yes or a no or in some words
14 rather than a nod of the head. Is that okay?
15 A. Yes. Correct.
16 Q. Whenever I ask a question, I will assume that
17 you understand it unless you tell me otherwise. So if for
18 any reason you don't understand a question, will you let
19 me know.
20 A. Correct.
21 Q. Do you understand that you have been sworn under
22 oath?
23 A. Yes, that's correct.
24 Q. And even though this is an informal setting
25 today, do you understand that it's just the same as if you

1 Q. Let me ask it differently. When do you recall
2 the last day that you worked for Swift? What was the
3 date, if you remember?

4 A. I'm not really sure, but it was around the 17th
5 or the 19th of January.

6 Q. In 2003?

7 A. Yes. Correct. Yes. Yes. Yes.

8 Q. Did you ever return to work at Swift after that
9 date?

10 A. No, not at all.

11 Q. And I understand that you were injured while
12 working at Swift in February of 1994; is that right?

13 A. Yes. Correct. I did.

14 Q. And did a doctor order any work restrictions for
15 you after that injury?

16 A. Yes. Correct.

17 Q. Were those work restrictions ever lifted during
18 the time you continued to work at Swift?

19 A. No, not at all.

20 Q. At the time you stopped working at Swift, what
21 was the job you had at the Cactus plant?

22 A. I was unwrapping the gloves, giving out the
23 uniforms for people to wear.

24 Q. Where in the plant were you involved with
25 unwrapping the gloves?

Page 9

1 A. In the room that was assigned for that job.
2 Q. And where -- was that next to the floor?
3 A. Yes, next to the floor.
4 Q. Were you a member of the union while you were
5 working for Swift?
6 A. I was a member for a while.
7 Q. Okay. Did you resign from the union at some
8 point?
9 A. That's correct. Yes, I did.
10 Q. And why was that?
11 A. The reason I resigned is because the union never
12 helped me at all.
13 Q. And how were you expecting them to help you?
14 A. I expected the union to help me out, and it
15 never helped me out at all.
16 Q. But more specifically, what were you expecting
17 them to help you with? Was it with a job assignment or
18 wages or -- what was it?
19 A. With my job.
20 Q. With the work assignment that you had?
21 A. Not with that job. I used to do a different job
22 before.
23 Q. And it was in that job at Swift that you felt
24 the union wasn't representing you?
25 A. Because the supervisor had me working with the

Page 10

1 knife, and with the restrictions I had, I shouldn't -- I
2 shouldn't have to have been raising my arms.
3 Q. And when you resigned from the union, did you
4 ever rejoin before you stopped working at Swift?
5 A. No. No. No. No, I never went back to the
6 union at all.
7 Q. Do you remember approximately what year it was
8 that you resigned from the union?
9 A. No, I don't recall it. I really don't.
10 Q. Was it before 2000?
11 A. Yes, it was before, that's correct.
12 Q. Were you born in Mexico?
13 A. That's correct, yes.
14 Q. And when did you move to the United States?
15 A. I moved here in April.
16 Q. What year, though?
17 A. '85.
18 Q. When you applied to work for Swift, were you a
19 citizen of the United States?
20 A. I was a resident.
21 Q. But were you a citizen?
22 A. No.
23 Q. And did you have a work visa at that time?
24 A. Yes. Correct.
25 Q. And since you started working at Swift in 1985,

Page 11

1 did you become a U.S. citizen?
2 A. No. No, I'm still a resident today. I am not
3 an American citizen.
4 Q. Okay. So you're a resident alien; is that
5 right?
6 A. Correct. Yes, I am.
7 Q. Did you review any documents to prepare for your
8 deposition today?
9 A. Yes. Correct.
10 Q. What did you review?
11 A. The documents we have with our attorney.
12 MS. CANO: He actually didn't review any
13 records, but -- explain to him what reviewing means.
14 Q. Before we came today -- I know we're looking at
15 documents here. But before we came today, did you review
16 any documents to prepare for the deposition?
17 A. No. No. No. No, not anything like this, no.
18 Q. And did you meet with anyone other than your
19 attorney that's here today to prepare for the deposition?
20 A. No. It was just her.
21 Q. And besides your attorney today, are there any
22 other attorneys representing you and the proposed class in
23 this case?
24 A. It's just her.
25 (Deposition Exhibit No. 5 marked for

Page 12

1 identification.)
2 Q. You've been handed what's been marked as
3 Exhibit 5. And does your handwriting appear at the top of
4 Exhibit 5 on the first page, the name?
5 A. Are you asking me if this is my handwriting?
6 Q. Yes.
7 A. Yes, it is. It is my handwriting.
8 Q. And on the second page of Exhibit 5, is that
9 your signature in the middle of the page?
10 A. Yes, this is my signature, that's correct.
11 Q. And this indicates on the second page that you
12 signed Exhibit 5 on January 8, 2007; is that correct?
13 A. Yes. Yes. Correct.
14 Q. Where were you when you signed Exhibit 2, if you
15 remember? I mean, excuse me, Exhibit 5.
16 A. No, I don't recall it.
17 Q. Do you think you were at home?
18 A. I don't recall it. I don't recall where it was.
19 Q. The second page of Exhibit 5 has the name of a
20 law firm, the Heygood law firm. Do you see that?
21 A. Yes. Yes, that's correct.
22 Q. How did you hear about the Heygood law firm?
23 A. It was through Attorney Domingo Garcia that I
24 heard about this law firm.
25 Q. And Mr. Garcia was your attorney in the other

<p style="text-align: right;">Page 13</p> <p>1 litigation against Swift; is that right?</p> <p>2 A. That's correct.</p> <p>3 Q. Did you have any communications with anyone from</p> <p>4 the Heygood law firm before you signed Exhibit 5?</p> <p>5 A. Yes.</p> <p>6 Q. When did those take place?</p> <p>7 A. Well, I don't recall that.</p> <p>8 Q. Was it shortly before you signed Exhibit 5?</p> <p>9 A. Yes, that's correct.</p> <p>10 Q. Do you remember who it was at the Heygood law</p> <p>11 firm that you communicated with?</p> <p>12 A. No. Well, I don't recall it, but I did.</p> <p>13 Q. Before you signed Exhibit 5, had you contacted</p> <p>14 any other attorneys about representing you and the</p> <p>15 proposed class in this case?</p> <p>16 A. No.</p> <p>17 Q. Have you ever checked any references for any of</p> <p>18 the attorneys at the Heygood law firm?</p> <p>19 A. No, I don't recall it.</p> <p>20 Q. Do you know what experience the attorneys at the</p> <p>21 Heygood law firm have in class actions?</p> <p>22 A. No. No. No, I don't recall it. I don't know.</p> <p>23 Q. And do you know what types of legal work in</p> <p>24 general the attorneys at the law -- the Heygood law firm</p> <p>25 do?</p>	<p style="text-align: right;">Page 15</p> <p>1 has been filed?</p> <p>2 A. I don't know.</p> <p>3 Q. What is your understanding of the people who are</p> <p>4 members of the proposed class in this case?</p> <p>5 A. I'm sorry. Could you repeat that question</p> <p>6 again.</p> <p>7 Q. Yes. What is your understanding of the people</p> <p>8 who are members of the proposed class in this case?</p> <p>9 A. My understanding is we want to know why our job</p> <p>10 was taken away from us.</p> <p>11 Q. But do you have any understanding about who the</p> <p>12 other members of the class would be regarding those</p> <p>13 claims?</p> <p>14 A. Could you repeat that question again.</p> <p>15 Q. Yes. Do you have any understanding about who</p> <p>16 the other people are that are proposed to be members of</p> <p>17 the class to pursue those claims?</p> <p>18 A. Are there other people, members, I mean, besides</p> <p>19 the ones that are here today -- that are here today to --</p> <p>20 Q. And that's my question. Do you know whether</p> <p>21 there are any other people?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you understand that you have been proposed as</p> <p>24 a class representative in this case?</p> <p>25 A. I don't know.</p>
<p style="text-align: right;">Page 14</p> <p>1 A. No. That's up to them. They are the ones.</p> <p>2 Q. Are you aware of any of the costs associated</p> <p>3 with this class action?</p> <p>4 A. No. No, that's up to them, my attorneys.</p> <p>5 Q. Do you understand whether you have any</p> <p>6 responsibility for paying any of the costs associated with</p> <p>7 this class action?</p> <p>8 A. Could you repeat that question again.</p> <p>9 Q. Yes. Do you understand whether you are</p> <p>10 responsible for paying any of the costs associated with</p> <p>11 this class action?</p> <p>12 A. I don't know. I don't know.</p> <p>13 Q. Do you know whether your attorneys have hired</p> <p>14 any expert witnesses in this case?</p> <p>15 A. No, I don't recall that. I don't know.</p> <p>16 Q. And do you know how much has been paid, if</p> <p>17 anything, by your attorneys to any expert witnesses?</p> <p>18 A. No, I don't know. I don't know.</p> <p>19 Q. Do you know how much it might cost to provide</p> <p>20 notice of this case to class members?</p> <p>21 A. No, I don't know.</p> <p>22 Q. What is your understanding of the claims you and</p> <p>23 the class are asserting in this case?</p> <p>24 A. You would have to ask the attorneys.</p> <p>25 Q. And do you know whether a classification motion</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. And do you know whether you would have any</p> <p>2 responsibilities to other members of the class?</p> <p>3 A. I don't know.</p> <p>4 Q. Let me hand you what's been previously marked as</p> <p>5 Exhibit 2. This is the Original Complaint that was filed</p> <p>6 on December 15, 2006. Have you ever seen this document</p> <p>7 before?</p> <p>8 A. Yes. Yes, I have. Yes. Yes.</p> <p>9 Q. And do you recall when you saw it the first</p> <p>10 time?</p> <p>11 A. I don't recall that, but --</p> <p>12 Q. And do you recall whether Exhibit 2 has ever</p> <p>13 been translated into Spanish for you?</p> <p>14 A. No, I don't recall that.</p> <p>15 Q. On the first page of Exhibit 2, there is a</p> <p>16 defendant identified as Hicks, Muse, Tate & Furst. Do you</p> <p>17 see that?</p> <p>18 A. Yes. Yes.</p> <p>19 Q. Do you know who that company is?</p> <p>20 A. It's not Swift?</p> <p>21 Q. That's my question. Do you know whether they</p> <p>22 have a relationship to Swift, yes or no, or you don't</p> <p>23 know?</p> <p>24 A. I don't know.</p> <p>25 Q. And do you know what claims are being asserted</p>

Page 17

Page 19

1 against Hicks Muse in this Original Complaint?

2 A. I don't know.

3 Q. Do you know whether or not Hicks Muse has been
4 dismissed as a defendant in this case?

5 A. I don't know that.

6 Q. Let me hand you what's been marked as Exhibit 3,
7 which is the First Amended Complaint that was filed on
8 December 28, 2006. Do you recall seeing this document
9 before?

10 A. Yes.

11 Q. And do you recall when you first saw it?

12 A. No, I don't recall that. I don't recall it.

13 Q. And has Exhibit 3 ever been translated into
14 Spanish for you?

15 A. No.

16 Q. Do you know what changes, if any, were made from
17 Exhibit 2, which was the Original Complaint, to Exhibit 3,
18 which is the First Amended Complaint we're looking at now?

19 A. I don't know.

20 Q. Let me hand you what's been marked as Exhibit 4.
21 This is the Plaintiffs' Second Amended Complaint that was
22 filed on March 14, 2008. Do you recall having seen
23 Exhibit 4 before?

24 A. Yes.

25 Q. And do you recall when you first saw it?

1 that -- the two I do.

2 Q. Okay. Which two do you know their actual names?

3 A. Jesus and Guerrero.

4 Q. And those were their real names?

5 A. That I knew of, yes. Yes.

6 Q. And was it your understanding, though, that they
7 were not legally authorized to work in the United States?

8 A. That's correct, yes.

9 Q. And when did you learn this information about
10 those two?

11 A. Okay. The reason that I became aware of it,
12 okay, when they were called to the office and they go up
13 to the supervisor and tell him, we want these two people
14 at the office, okay, and the reason why they were pulled
15 out was because of their documents.

16 Q. Did those two continue to work --

17 MS. CANO: Objection, nonresponsive.

18 Q. Did those two continue to work at Swift after
19 they were pulled out and sent to the office?

20 A. No, not at all.

21 Q. Do you remember the approximate time frame when
22 that happened?

23 A. This was between '85 and '86.

24 Q. Okay. So 1985 and 1986?

25 A. Yes. Correct.

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Page 20

1 A. No. No, I don't really recall it.

2 Q. Do you recall Exhibit 4 ever being translated
3 for you into Spanish?

4 A. No. No.

5 Q. And do you know what changes were made from the
6 First Amended Complaint, which was Exhibit 3, and the
7 Second Amended Complaint, which is Exhibit 4 that we're
8 looking at now?

9 A. I don't know.

10 Q. When you were working for Swift, were you aware
11 of any information that Swift had hired anyone at the
12 Cactus plant who was not legally authorized to work in the
13 United States?

14 A. I met some people.

15 Q. And can you tell me their names.

16 A. One was Jesus Ortiz. Or those are the names
17 they had there. Pedro Vargas.

18 Q. Anyone else that you can remember?

19 A. Guerrero Hernandez.

20 Q. Anyone else?

21 A. Those three people.

22 Q. And I think, as you mentioned, those three
23 people had those names, but you don't know whether those
24 were their real names?

25 A. Okay. Two I do know. It's just the last one

1 Q. And what was the name of the third person whose
2 real name you didn't know?

3 A. Okay. It was Pedro Vargas.

4 Q. And what did you know about that person, as far
5 as whether they were legally authorized to work in the
6 United States?

7 A. It was -- the same thing happened to him that
8 happened to the other two. He was called over.

9 Q. And approximately when did that happen?

10 A. It was approximately the same time.

11 Q. Were you aware of any other information while
12 you were working for Swift that the company had hired
13 anyone at the Cactus plant who was not legally authorized
14 to work in the United States, besides those three?

15 MS. CANO: Objection, form.

16 A. Well, there were a lot of people, but I didn't
17 know them.

18 Q. And when you say there were a lot of people,
19 what did you know about that?

20 A. Because they were the ones talking about it.

21 Q. So you heard people who were employed at Swift
22 saying that they were not legally authorized to work in
23 the United States?

24 A. Among themselves, conversations they had. I
25 can't tell you the name of these people because, of

Page 21

Page 23

1 course, there they had -- they were using different names.
2 Q. And during what time frame did you overhear
3 these conversations?

4 A. Okay. Well, this was later on, like in 2001,
5 2002.

6 Q. Were there any particular nationalities of
7 people who worked at Swift who you understood were talking
8 about their not being legally authorized to work in the
9 United States.

10 A. Well, yes. There were like the -- referring to
11 the ones from Guatemala.

12 Q. And what did you know about that?

13 A. They were -- they were here, coming as illegal
14 aliens.

15 Q. In what time frame did that occur?

16 A. It was during that time, that period of time.

17 Q. So in 2001?

18 A. 2002, yes.

19 Q. But other than the three people whose names you
20 gave earlier, you don't know the names of any other
21 individuals who worked at Swift who may not have been
22 legally authorized to work in the United States?

23 A. Well, no. But there were a lot of people.

24 Q. And just so I'm clear, you knew that at least as
25 of 2001 and the first half of 2002?

1 the Cactus plant, where they entered all the Swift plants.

2 Q. And that was in 2006?

3 A. Was it 2006? It was December the 12th.

4 Q. But it was after you left work at Swift?

5 A. Oh, yes. Yes, since 2003. Yes.

6 Q. During the time you were working at Swift, were
7 you aware of any immigration raids at other Swift plants?

8 A. It was just that one.

9 Q. When you were working at Swift from 1985 to
10 January of 2003, were you aware of any immigration raids
11 planned by government authorities at the Cactus plant that
12 never took place?

13 A. No, I don't know about that.

14 Q. When you were working for Swift from 1985 to
15 January of 2003, were you aware of any information that
16 Swift had helped any workers at the Cactus plant obtain
17 false documents relating to their identity or immigration
18 status?

19 A. Well, no. What I do know is that they were
20 hiring people, and out of the people that they were
21 firing -- or people that would quit, they were hiring
22 people, illegal aliens, and they would use the other
23 names, those other names of those other people that
24 were being -- that they had fired or that had quit so that
25 they could charge them a certain amount of money and give

Page 22

Page 24

1 A. More or less, yes.

2 Q. When you were working for Swift, were you aware
3 of any information that Swift had hired anyone at plants
4 other than in Cactus, Texas, who were not legally
5 authorized to work in the United States?

6 A. Well, no. Where I became aware of it was there
7 at Cactus.

8 Q. And did you have any information while you were
9 working at Swift about who was employed at any of the
10 other Swift plants besides Cactus?

11 A. No, I don't know about the other ones.

12 Q. And you never worked for Swift, other than the
13 Cactus plant, correct?

14 A. Correct. That's correct.

15 Q. During the time that you worked for Swift at the
16 Cactus plant from 1985 to January of 2003, were there any
17 immigration raids by government authorities that took
18 place?

19 A. No, not at all, not during that time that I was
20 there.

21 Q. And to your knowledge, during the time you were
22 working for Swift, were there any immigration raids by
23 government authorities that took place at any Swift plants
24 other than in Cactus?

25 A. No, it was just on December the 12th there at

1 them the employment.

2 Q. Okay. Let me back up and just ask specifically
3 about while you were working for Swift whether you have
4 specific information that anyone at Swift gave false
5 documents to illegal immigrants at the Cactus plant.

6 MS. CANO: Objection, asked and answered.
7 Objection, form.

8 A. No, I -- about that, no, no.

9 Q. Okay. Then explain to me the other portion.
10 You didn't know about false documents, but you mentioned
11 something about someone being paid money so that an
12 illegal immigrant could work at Swift. Can you explain
13 that to me.

14 A. That's correct. They would hire them. They
15 would hire the people and give them the employment with
16 people that did -- that did have documents. Like, for
17 example, I had documents. I could have been fired or I
18 could have quit, but they would continue hiring illegal
19 aliens, using those names -- or that name.

20 Q. So do you believe that Swift hired someone after
21 you stopped working at the company, using your name?

22 A. No, not my name, but a different person. No,
23 not mine. Yes.

24 Q. Can you identify any specific person's name that
25 was used by an illegal immigrant who had been a former

Page 25

1 employee of Swift?

2 A. I really don't recall that because there were a
3 lot of people.

4 Q. Was there -- are you aware of any information
5 that anyone working at Swift received money from an
6 illegal immigrant to allow them to use a former employee's
7 name?

8 A. No, I don't know that.

9 Q. While you were working for Swift from 1985 to
10 January of 2003, were you aware of any information that
11 Swift provided illegal immigrants at the Cactus plant with
12 advice on how to avoid detection by government
13 authorities?

14 A. I don't know. I really don't know about that.
15 I don't know about that.

16 Q. And while you were working at Swift, were you
17 aware of any information that the company provided illegal
18 immigrants with advice on how to be hired or rehired at
19 the Cactus plant?

20 A. No. That was just the personnel that was hiring
21 them. Okay. Those people that entered the company and
22 working as illegal aliens, they didn't start working there
23 just because they wanted to work there. Someone had to
24 have brought them in.

25 Q. And is it your testimony that someone at Swift

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1 nonresponsive, I object.

2 A. Okay.

3 Q. And this issue with the Guatemalans, was this in
4 the 2001 and the first half of 2002 time frame?

5 A. Yes. Correct. Yes.

6 Q. And who was the person in charge of hiring that
7 you mentioned at Swift?

8 A. Well, there were two or three people, yes.

9 Q. Do you know their names?

10 A. I don't recall the names. But one of the
11 people -- one of these people was -- they let him go from
12 the office. There was one person, and there was a woman
13 also.

14 Q. So there was one person who had been let go by
15 Swift that had been working in the personnel department?

16 A. Yes, there was one -- there were one or two
17 people.

18 Q. But you don't remember the names of any of
19 these --

20 A. I don't recall the names.

21 Q. Now, you mentioned that there had been people
22 who had proper immigration papers or they were authorized
23 to work who applied to Swift and were told to leave their
24 telephone number. Can you tell me the names of any of
25 those people?

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1 told those people that were illegal to work at the
2 company?

3 A. I believe so, because if I'm here legally -- and
4 I'm talking about people that were there asking --
5 applying for a job legally at Swift with their -- with
6 legal documents, proper legal documents, with their
7 citizenship and everything in order, they were there
8 applying for a job at Swift, and the personnel would tell
9 them that they were not hiring anyone. They would ask
10 them to leave their phone number so that they could call
11 them back, okay, and they never called them back.

12 Nevertheless, there were a lot of people
13 there from Guatemala. And I'm not against illegal aliens
14 because I was an illegal alien also, and we all try to get
15 ahead in life any way we can. But listen to me. There
16 was -- there were twenty, thirty people from Guatemala,
17 okay, searching for employment, okay, and they already had
18 their application with them. It was all filled out.

19 Okay. And they would come up to the chief
20 of personnel, okay, the one that was hiring, and they
21 would go directly to this person in charge of hiring.
22 They were -- there was a physical done on them, and right
23 away they obtained the employment. Correct. Yes.

24 MS. CANO: I think that's enough. I'm not
25 sure there's any other question. To the portion that's

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1 A. Well, I never knew them by their names.

2 Q. How did you obtain this information about them,
3 then?

4 A. Because I was told this by some people. I mean,
5 this is what was -- this is what was being said. This was
6 what was -- the conversations that were taking place among
7 themselves.

8 Q. Just so I'm clear, was this something that was
9 told to you by a third party or information you obtained
10 by overhearing these people talking among themselves?

11 MS. CANO: Objection, form.

12 A. Conversations of other people.

13 THE INTERPRETER: Other people's
14 conversations. I'm sorry.

15 Q. And those were conversations that you overheard?

16 A. Yes, that I overheard. That's correct.

17 Q. Okay. And again, this was in the 2001 and the
18 first half of 2002 time frame?

19 A. Yes, that's correct.

20 MS. CANO: Objection, form.

21 Q. Other than what we've just talked about, when
22 you were working at Swift, were you aware of information
23 that Swift provided illegal immigrants with advice on how
24 to be hired or rehired at the Cactus plant?

25 A. If I heard? No, I don't recall it.

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1 Q. And since you didn't work at any of the other
2 Swift plants besides in Cactus, I take it you don't have
3 any information about whether Swift assisted any workers
4 at those other plants in obtaining false documents or
5 avoiding detection by government authorities?

6 A. No, it was just there. I don't know about the
7 other ones.

8 Q. While you were working at Swift from 1985 to
9 January of 2003, did you believe that you were paid less
10 per hour because Swift had hired illegal immigrants at the
11 Cactus plant?

12 A. I believe so. I believe our salaries were low.

13 Q. Why did you believe that?

14 A. Because I imagine that since they had illegal
15 aliens there, since they didn't have any right to make any
16 claim about it, they were -- they were in agreement.

17 Q. Did you believe that in 2001 and during the
18 first half of 2002?

19 A. Yes, because when all this happened, they right
20 away let anyone that had been injured go.

21 Q. Okay. But just so that I'm clear, in 2001 and
22 the first half of 2002, you believed that your pay was
23 less because Swift had hired illegal immigrants at the
24 Cactus plant?

25 A. I believe so because -- because they were not

1 A. Well, that they were hiring people from
2 Guatemala, and not just from Guatemala, from Mexico and --
3 yes, yes, different -- different races, yes.

4 Q. And can you identify by name any individuals who
5 Swift hired that were not authorized to work in the United
6 States?

7 A. Well, there were a lot of people. Okay? I
8 believe that just the people from Guatemala, there were --
9 there were a lot of them.

10 Q. But you can't give me a specific name of any one
11 of those people?

12 A. Well, they were using different names. Okay?
13 It would be very difficult to know the name of each
14 person.

15 Q. And you can't tell me any of those names today
16 because of that difficulty?

17 A. Okay. All those people from Guatemala, they had
18 their hardhat, okay, and they had their name on it, and on
19 that hardhat, all the names were Anglo names, American
20 names. So then if that person did not speak English, no
21 Spanish, they spoke a dialect among them, how could -- how
22 were we expected to believe that that person was an
23 American?

24 Q. And when you say -- by American, you mean
25 legally authorized to work in the United States?

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1 paying what they should have been paying the legal aliens.

2 Q. While you were working at Swift, did you hear
3 anyone else working there that stated they had a similar
4 belief as you that their wages were being lowered because
5 Swift had hired illegal immigrants?

6 A. No. No, I don't recall it.

7 Q. And while you were working at Swift in this time
8 frame from 2001 and during the first half of 2002, did you
9 believe your wages were lower because Swift had provided
10 any false documents to illegal immigrants or otherwise
11 help them avoid government authority detection?

12 A. I really don't know how they were helping them
13 out. But why did they hire them?

14 Q. In any event, you thought your wages were lower,
15 at least as of 2001 and the first half of 2002?

16 A. Yes, I believe so. Yes.

17 MR. EBERLE: why don't we take a short
18 break, if it's okay.

19 (Recess from 12:39 p.m. to 12:56 p.m.)

20 Q. (BY MR. EBERLE) After you stopped working for
21 Swift in January of 2003, did you receive any information
22 that Swift had hired illegal immigrants at the Cactus
23 plant?

24 A. Yes.

25 Q. And what information did you receive?

1 A. Yes. Yes.

2 Q. And these people you were describing, was this
3 also in that 2001, first half of 2002 time frame?

4 A. It was during that period of time, yes.

5 Q. Now, after you left Swift in January of 2003,
6 did you ever return to the plant to work there?

7 A. No, not at all.

8 Q. Were you ever at the plant at all after January
9 of 2003?

10 A. No. No, not at all.

11 Q. Did you receive any information from anyone else
12 who was still working at Swift after you left about the
13 company hiring illegal immigrants at the Cactus plant?

14 A. Well, all the people from Guatemala continued
15 working there.

16 Q. Were you aware of any information that Swift had
17 hired any new Guatemalans or others who may not have been
18 legally authorized to work in the U.S.?

19 A. After I left, yes, they continued hiring.

20 Q. And who provided that information to you since
21 you weren't at the plant yourself?

22 A. Okay. Out of all those people we talked about
23 right now -- and I don't want to give out their names
24 because I don't want them to take any retaliation against
25 them. And I know who these people are and I know their

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1 names, but for respect to them, I don't want to hurt them.
2 Q. And these are people that still work at Swift
3 today, some of them?

4 A. No, those people were not hired.

5 Q. Okay. Let me back up because --

6 MS. CANO: I think we're confused.

7 Q. -- I think we're confused. I'm asking after you
8 left the plant in January of 2003, did anyone who was
9 working and had been hired by Swift provide you with
10 information that the company was hiring illegal
11 immigrants?

12 A. It was through conversations with other people.

13 Q. And who are those people?

14 A. I'm sorry?

15 MS. CANO: Why don't you ask him to tell
16 you who the people were that told him that information.

17 MR. EBERLE: Yes, that's -- can you
18 translate that.

19 A. I know the names of the people that were there
20 applying for a job, but maybe the plant just retaliates
21 against these people.

22 MS. CANO: Do you want to take a break?

23 MR. EBERLE: Yeah. Why don't we go off the
24 record for a second.

25 (Recess from 1:02 p.m. to 1:08 p.m.)

1 you left Swift, who provided you with information about
2 Swift hiring illegal immigrants?

3 A. It was just that person. And I just don't want
4 to give the name out of that person.

5 Q. Let me ask you just a few more questions about
6 the time after you left Swift.

7 A. Correct.

8 Q. Do you know whether Swift provided any false
9 documents to illegal immigrants after you left the
10 company?

11 A. No, I don't know about that.

12 Q. And after you left Swift, do you know whether
13 Swift gave any advice to illegal immigrants about how to
14 avoid detection by government authorities?

15 A. No, I don't know about that.

16 Q. And after you left Swift, do you know whether
17 Swift provided any illegal immigrants with advice about
18 how to be hired or rehired at the Cactus plant?

19 A. No, I don't know.

20 Q. And after you left Swift, do you know any
21 information about any employees that Swift hired at plants
22 other than the Cactus plant?

23 A. No, I don't know that. I don't know about the
24 other ones.

25 Q. We talked earlier about your signing Exhibit 5

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1 Q. (BY MR. EBERLE) So we're back on the record,
2 and let me --

3 A. Yes.

4 Q. -- try to clarify that we were talking about two
5 different time periods. One was before you stopped
6 working at Swift, and then the second one is after you
7 left Swift in January of 2003.

8 A. Okay. That's correct.

9 Q. So you told me information about while you were
10 working at Swift and people that you knew who had applied
11 that were legally authorized but did not get jobs,
12 correct?

13 A. Yes. Yes, that's correct. That is correct.

14 Q. And now what I want to ask you about is after
15 you left Swift, what did you know, if anything, about
16 Swift hiring illegal immigrants at the Cactus plant?

17 A. They continued hiring.

18 Q. And how did you know that?

19 A. It was through a person that told me about it.
20 But I don't want to release that name because I don't want
21 to hurt them.

22 Q. And is that a person who still works at Swift?

23 A. I believe -- I believe that person still works
24 there, yes.

25 Q. And was there anyone besides that person, after

1 in January of 2007. Do you remember that?

2 A. Yes, that's correct.

3 Q. Have you had any communications with the Heygood
4 law firm since January of 2007 about this case?

5 MS. CANO: Without telling them what you've
6 discussed.

7 A. Well, yes. Yes, yes.

8 Q. And has that been telephone calls or what form?

9 A. Yes, by phone.

10 Q. And how often?

11 A. It's not very often, but I have had some
12 conversations, two or three times.

13 Q. And who was that with?

14 A. Well, it's with the secretaries, and I really
15 don't recall their names.

16 Q. And was that about setting up your deposition
17 today?

18 MS. CANO: Objection. You don't have to
19 answer that question. That's getting into actual
20 communication.

21 Q. Did you have any communications after January of
22 2007 with any of the attorneys at the Heygood law firm
23 before today?

24 A. We're talking about these attorneys, right?

25 Q. Yes.

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1 A. Yes. Yes.
2 Q. And how often did that happen?
3 A. About three or four times, by phone.
4 Q. And which attorneys, if you remember?
5 A. With Angel Reyes.
6 Q. And anyone else?
7 A. No, just with them and the secretaries, because
8 they're the ones that pick up the phone.
9 MR. EBERLE: That's all I have.
10 EXAMINATION
11 BY MS. CANO:
12 Q. I have a few questions so that we can clarify
13 something for the record.
14 A. Yes.
15 Q. You were asked questions about the time while
16 you were still employed at Swift.
17 A. Yes, that's correct. Yes.
18 Q. And you were asked questions regarding
19 individuals who applied for positions who were legally in
20 the country.
21 A. Yes, that's correct. And that is correct.
22 Q. And you were asked whether or not you knew those
23 individuals who had applied for positions that were legal
24 but were not hired.
25 A. Yes, that's correct.

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1 Q. Okay. And you indicated that you had overheard
2 about who they were.
3 A. Yes, that's correct.
4 Q. Do you know who those individuals were that
5 applied but were not hired?
6 A. Yes, I do know the names, but I don't want -- I
7 don't want to give out those names because I don't want to
8 hurt them.
9 Q. All right. And the names of those -- sorry.
10 Those individuals that you knew were not employed but were
11 legal, these were all persons who applied during the time
12 you were yourself employed -- you yourself were employed
13 at Swift?
14 A. Yes. Yes, that was before -- that's when I was
15 still working there.
16 Q. All right. Are there any individuals that were
17 legal but not hired after they applied for a position, to
18 your knowledge, after you had already stopped working at
19 Swift?
20 A. Yes, there was one person that told me that she
21 hadn't been hired.
22 Q. Okay. And are you in the same situation, that
23 you don't want to give out the name of that person?
24 A. It's just because I don't want anyone to
25 retaliate against them. I don't want to hurt them.

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1 Q. I understand.
2 MS. CANO: Pass the witness.
3 FURTHER EXAMINATION
4 BY MR. EBERLE:
5 Q. Any of these people that you know the names of,
6 the ones while you were working there and the one person
7 after you left Swift, do you know whether any of them have
8 ever worked for Swift?
9 A. One of these -- one of these persons had worked
10 there for quite a while, but the other person was --
11 was --
12 MS. CANO: Seeking.
13 A. -- was seeking the job for the first time there.
14 Q. Do you know any -- do any of these people that
15 you know the names of currently work at Swift?
16 A. No. No.
17 MR. EBERLE: I'll pass the witness.
18 MS. CANO: We'll reserve the remainder of
19 our questions.
20 (End of Proceedings.)
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1 CHANGES AND SIGNATURE
2 PAGE LINE CHANGE REASON
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 I, LEONEL RUIZ MELENDEZ, have read the foregoing
10 deposition and hereby affix my signature that same is true
11 and correct, except as noted above.
12
13 LEONEL RUIZ MELENDEZ
14 STATE OF _____
15 COUNTY OF _____
16 Before me, _____, on this day
17 personally appeared LEONEL RUIZ MELENDEZ, known to me or
18 proved to me on the oath of _____ or through
19 _____ (description of identity card
20 or other document) to be the person whose name is
21 subscribed to the foregoing instrument and acknowledged to
22 me that he/she executed the same for the purpose and
23 consideration therein expressed.
24 Given under my hand and seal of office on this
25 _____ day of _____, 2008.
26
27 NOTARY PUBLIC IN AND FOR
28 THE STATE OF _____
29 My Commission Expires: _____

CHANGES AND SIGNATURE

PAGE	LINE	CHANGE	REASON
3		add "I saw Fred Perez, Superintendent of Mill Floor,	
4		punch the timecards himself. He would not just	
5		do one but a whole stack. I saw this."	
6		add "The people that worked there had a name	
7		one day and next day had another. The supervisors	
8		themselves did not know their names. I saw this."	

I, LEONEL RUIZ MELENDEZ, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

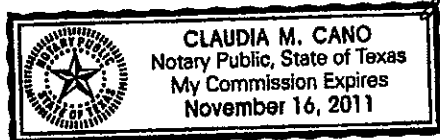
Leonel Ruiz Melendez
LEONEL RUIZ MELENDEZ

STATE OF TEXAS)COUNTY OF MOORE)

Before me, CLAUDIA M CANO, on this day personally appeared LEONEL RUIZ MELENDEZ, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office on this

6 day of August, 2008.



Claudia Cano
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires: 11-16-11

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION
4 BLANCA VALENZUELA, MARGIE)
5 SALAZAR, JOSE E. SERRATO,)
6 JOSIE RENDON, CLARA TOVAR,)
7 CONSUELO ESPINO, MARIA)
8 AVILA, ERNESTINA)
9 NAVARRETTE, MARIA E.)
10 MUNOZ, AMANDA SALCIDO,)
11 CANDELARIO G. ORTEGA,)
12 MARIA ORTIZ, JOSE OLIVA,)
13 RAFAELA CHAVEZ, ELODIA)
14 ARROYO, SUSANA CARDIEL,)
15 GRACIE RIOS, AND LEONEL)
16 RUIZ, Individually and on)
17 behalf of all others)
18 similarly situated,)
19 Plaintiffs,)
20 vs.)
21 SWIFT BEEF COMPANY, INC.)
22 D/B/A SWIFT COMPANY,)
23 SWIFT & COMPANY, HICKS,)
24 MUSE, TATE & FURST, INC.,)
25 HM CAPITAL PARTNERS OF)
DALLAS, LLC, and JOHN)
DOES I-V,)
Defendants.)

CIVIL ACTION NO.
3:06-cv-02322-N

ECF

ORAL DEPOSITION OF
CANDELARIO G. ORTEGA
JULY 11, 2008

Page 2

1 ORAL DEPOSITION OF CANDELARIO G. ORTEGA, produced as
2 a witness at the instance of the Defendants and duly
3 sworn, was taken in the above-styled and numbered cause on
4 the 11th of July, 2008, from 9:22 a.m. to 9:59 a.m.,
5 before Angie Weaver, Certified Shorthand Reporter in and
6 for the State of Texas, reported by computerized stenotype
7 machine at the offices of Mullin, Hoard & Brown, L.L.P.,
8 500 S. Taylor, Suite 800, in the City of Amarillo, County
9 of Potter, State of Texas, pursuant to the Texas Rules of
10 Civil Procedure and the provisions stated on the record or
11 attached hereto.
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1 APPEARANCES
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12 ALSO PRESENT:
13 Ms. Rafaela Chavez
14 Ms. Mary Jane Ortega
15 Ms. Linda Foster, Interpreter
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<p>1 (Ms. Linda Foster sworn as interpreter.)</p> <p>2 CANDELARIO G. ORTEGA,</p> <p>3 having been first duly sworn, testified through the duly</p> <p>4 sworn interpreter as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. EBERLE:</p> <p>7 Q. Can you please state your full name.</p> <p>8 A. Candelario G. Ortega.</p> <p>9 Q. And I introduced myself before. My name is</p> <p>10 Brian Eberle, and I'm one of the attorneys for the Swift</p> <p>11 defendants in this case, so I'll be asking you some</p> <p>12 questions this morning, if that's okay.</p> <p>13 A. That's fine.</p> <p>14 Q. Do you speak any English?</p> <p>15 A. Yes, more or less.</p> <p>16 Q. Are you able to read any English?</p> <p>17 A. A little.</p> <p>18 Q. And is it your preference to have documents in</p> <p>19 English translated for you so that you can read them in</p> <p>20 Spanish?</p> <p>21 A. Yes, it's much better for me.</p> <p>22 Q. And as you know, we have an interpreter here</p> <p>23 today, and I'm going to be asking you questions in</p> <p>24 English, and Ms. Foster will interpret them for you into</p> <p>25 Spanish, and then you will answer the questions in</p>	<p>1 oath?</p> <p>2 A. Yes.</p> <p>3 Q. And even though this is an informal setting, do</p> <p>4 you understand that it's just the same as if you were</p> <p>5 giving testimony in a court of law?</p> <p>6 A. Yes.</p> <p>7 Q. When did you first start working for Swift at</p> <p>8 its Cactus plant?</p> <p>9 A. It was on 9 of '87.</p> <p>10 Q. So September of 1987?</p> <p>11 A. Yes.</p> <p>12 Q. And when we talk about the Cactus plant today,</p> <p>13 do you understand that we're talking about Swift's beef</p> <p>14 processing plant located around the Cactus and Dumas area</p> <p>15 in Texas?</p> <p>16 A. Yes.</p> <p>17 Q. And I believe you had your deposition taken in</p> <p>18 the last year or two in another case involving Swift,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And I understand from that deposition that the</p> <p>22 last day you received wages from Swift was October 31,</p> <p>23 2001.</p> <p>24 A. Yes.</p> <p>25 Q. Did you ever return to work at Swift after that</p>
Page 6	Page 8
<p>1 Spanish, Ms. Foster will interpret your words into English</p> <p>2 so that the court reporter can take that down. Is that</p> <p>3 okay?</p> <p>4 A. That's fine.</p> <p>5 Q. And let me review a couple of procedural rules.</p> <p>6 One is that only one of us may speak at a time, so we may</p> <p>7 need to pause occasionally to allow Ms. Foster to finish</p> <p>8 her interpretation. Is that okay?</p> <p>9 A. That's fine.</p> <p>10 Q. And even if you think you understand a question</p> <p>11 I'm asking in English, Ms. Foster will interpret all</p> <p>12 questions into Spanish. You should always answer in</p> <p>13 Spanish. Okay?</p> <p>14 A. That's fine.</p> <p>15 Q. And all of your answers need to be verbal so the</p> <p>16 court reporter can take your answers down, so it will be</p> <p>17 important for you to answer yes or no or in words rather</p> <p>18 than with gestures or head nods. Is that okay?</p> <p>19 A. That's fine.</p> <p>20 Q. And when I ask a question, I will assume that</p> <p>21 you understand it unless you tell me otherwise. So if for</p> <p>22 any reason you don't understand a question I'm asking,</p> <p>23 will you let me know.</p> <p>24 A. That's fine.</p> <p>25 Q. Do you understand that you have been sworn under</p>	<p>1 date?</p> <p>2 A. No.</p> <p>3 Q. And I also understand that you were injured</p> <p>4 while working for Swift in approximately May of 1999; is</p> <p>5 that right?</p> <p>6 A. Yes.</p> <p>7 Q. And did a doctor order any work restrictions for</p> <p>8 you after that injury?</p> <p>9 A. Yes.</p> <p>10 Q. And what were those restrictions?</p> <p>11 A. The restrictions he gave me was that I was not</p> <p>12 to lift over 5 pounds.</p> <p>13 Q. Were those restrictions ever lifted between the</p> <p>14 time of your injury and when you left Swift in October of</p> <p>15 2001?</p> <p>16 A. No.</p> <p>17 Q. Were you a member of a union the entire time you</p> <p>18 were working for Swift?</p> <p>19 A. Yes.</p> <p>20 Q. Were you born in Mexico?</p> <p>21 A. Yes.</p> <p>22 Q. And when did you move to the United States?</p> <p>23 A. I recall it being in '78.</p> <p>24 Q. And when you applied to work for Swift in 1987,</p> <p>25 were you a U.S. citizen at that time?</p>

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1 A. I didn't apply in '78. In '78 was the first
2 time I came to the United States.
3 Q. I'm sorry. I meant in 1987.
4 A. In '87, I already had documents.
5 Q. Were you a U.S. citizen at that time?
6 A. I was a resident.
7 Q. So you were legally authorized to work when you
8 applied for -- when you applied at Swift in 1987?
9 A. Yes.
10 Q. Did you ever become a U.S. citizen since then?
11 A. No, I have not.
12 Q. And you're still a resident alien, then?
13 A. Yes.
14 Q. Did you review any paper to prepare for your
15 deposition today?
16 A. No.
17 Q. And did you meet with anyone other than Ms. Cano
18 to prepare for today?
19 A. No.
20 Q. Besides Ms. Cano, are there any other attorneys
21 representing you and the proposed class in this case?
22 A. Just her co-workers, I believe.
23 Q. And who can you recall among those attorneys?
24 Any names you can provide me with?
25 A. I don't recall them by name.

1 question.
2 Q. How did you find out about the Heygood law firm?
3 A. I still don't understand your question.
4 Q. I'm trying to find out how you came to have
5 them, the Heygood law firm, be your attorneys in this
6 case.
7 A. It was through Blanca, Blanca Valenzuela.
8 Q. Before you signed Exhibit 7, do you remember
9 talking with anyone from the Heygood law firm?
10 A. Yes.
11 Q. Do you know when that took place?
12 A. I believe the date's on it.
13 Q. Okay. So you think it was around January 9,
14 2007 that you talked with someone from the Heygood law
15 firm about this case?
16 A. Yes.
17 Q. Do you remember talking with anyone from the
18 Heygood law firm before that time about this case?
19 A. No. No, I don't recall that.
20 Q. Before you signed Exhibit 7, did you contact any
21 other attorneys about representing you and the proposed
22 class in this case?
23 A. No.
24 Q. Did you ever check any references for any of the
25 attorneys at the Heygood law firm?

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1 (Deposition Exhibit No. 7 marked for
2 identification.)
3 Q. You've been handed what's been marked as
4 Deposition Exhibit 7. And I wanted to ask on the second
5 page whether your signature is there in the middle of the
6 page.
7 A. Yes.
8 Q. And the date that appears above your signature
9 is January 9, 2007. Is that the date on which you signed
10 Exhibit 7?
11 A. Yes.
12 Q. Do you recall where you were when you signed
13 Exhibit 7?
14 A. No.
15 Q. Do you think you might have been at home?
16 A. I believe it was with the attorneys.
17 Q. But you don't remember who you might have been
18 meeting with?
19 A. No.
20 Q. Next to your signature on the second page of
21 Exhibit 7, there's the name of a law firm, the Heygood Orr
22 firm. Do you see that?
23 A. Yes.
24 Q. And how did you hear about the Heygood firm?
25 A. I'm sorry. I'm not sure I understood your

1 A. No.
2 Q. And do you know what type of work the attorneys
3 at the Heygood law firm do?
4 A. No.
5 Q. Do you know whether the attorneys at the Heygood
6 law firm have any experience with class actions?
7 A. I believe that they do have experience. That's
8 the reason why they're doing this.
9 Q. And can you tell me anything more specific about
10 that, what your understanding is about their experience
11 with class actions.
12 A. No.
13 Q. Are you aware of any of the costs associated
14 with this class action?
15 A. No.
16 Q. Do you understand if you have any responsibility
17 for paying any of the costs associated with this class
18 action?
19 MS. CANO: Objection, form.
20 A. No.
21 Q. Do you know whether your attorneys in this case
22 have hired any expert witnesses?
23 A. No.
24 Q. Do you know how much your attorneys have paid to
25 any expert witnesses in this case?

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1 MS. CANO: Objection, form.
2 A. I don't know.
3 Q. And do you know how much it might cost to
4 provide notice of this case to class members?
5 A. No.
6 Q. What do you know about the claims you are
7 asserting in this case on behalf of yourself and the
8 class?
9 A. I don't understand that.
10 Q. What are you claiming that Swift has done wrong
11 in this case?
12 A. The reason was that they let us go.
13 Q. You're referring to the employees who were
14 terminated by Swift because of injuries?
15 A. Yes.
16 Q. Anything else that you think Swift has done
17 wrong that you're seeking relief for in this case?
18 A. No.
19 Q. Do you know whether a class certification motion
20 has been filed in this case?
21 A. No.
22 Q. Do you understand that you've been proposed to
23 be a class representative in this case?
24 A. Yes.
25 Q. And what do you understand your responsibilities

1 Q. Hicks, Muse, Tate & Furst.
2 A. No.
3 Q. You don't know who that is?
4 A. No.
5 Q. And do you know whether the claims against Hicks
6 Muse have been dismissed in this case?
7 A. No.
8 Q. Let me hand you what's been marked as Exhibit 3,
9 which is the First Amended Complaint filed on December 28,
10 2006. Have you seen Exhibit 3 before?
11 A. Yes.
12 Q. And when do you think you first saw it?
13 A. I'm not sure.
14 Q. Again, do you think it would be around the
15 time it was filed at the end of December 2006?
16 A. It could be.
17 Q. Was Exhibit 3 ever translated into Spanish for
18 you?
19 A. I don't believe so.
20 Q. Do you know what changes were made between the
21 First Amended Complaint, which is Exhibit 3, from the
22 Original Complaint, which was Exhibit 2?
23 A. No.
24 Q. And on Exhibit 3, there's a defendant called HM
25 Capital Partners of Dallas, LLC. Do you see that?

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1 are, if any, to other members of the class?
2 A. I didn't understand that.
3 Q. Do you have any obligations to other members of
4 the class as their representative?
5 A. No.
6 Q. And do you know what people are being proposed
7 to be included in this class?
8 A. No.
9 Q. Let me show you what was marked as Exhibit 2,
10 which was the Original Complaint filed on December 15,
11 2006. Have you ever seen Exhibit 2 before?
12 A. Yes.
13 Q. Do you remember when you first saw it?
14 A. No, I don't recall.
15 Q. Do you think it would have been around the time
16 it was filed in December of 2006?
17 A. Yes.
18 Q. Was Exhibit 2 ever translated into Spanish for
19 you?
20 A. It is in Spanish. No. I'm sorry. No, I don't
21 recall it being in Spanish.
22 Q. And on the first page of Exhibit 2, there is a
23 defendant identified as Hicks, Muse, Tate & Furst. Do you
24 know who that company is?
25 A. Which one are you referring to?

1 A. Yes.
2 Q. Do you know who HM Capital Partners is?
3 A. No.
4 Q. And do you know whether or not HM Capital
5 Partners has been dismissed as a defendant?
6 A. No.
7 Q. Let me hand you what's been marked as Exhibit 4,
8 which is Plaintiffs' Second Amended Complaint filed on
9 March 14, 2008. Have you ever seen Exhibit 4 before?
10 A. I probably have.
11 Q. And again, do you remember when you saw it for
12 the first time?
13 A. It could have been on this same time that it's
14 dated or a little after.
15 Q. And was Exhibit 4 ever translated into Spanish
16 for you?
17 A. No.
18 Q. Do you know what changes were made from the
19 First Amended Complaint, which was Exhibit 3, to this
20 Second Amended Complaint, which is Exhibit 4?
21 A. No.
22 Q. When you were working for Swift from 1987 until
23 October of 2001, did you know if Swift hired anyone at the
24 Cactus plant who was not legally authorized to work in the
25 United States?

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1 MS. CANO: Objection, form.
2 A. No.
3 Q. And do you have any information at all about
4 Swift's hiring practices at its plants other than in
5 Cactus, Texas?
6 A. No.
7 Q. When you worked at Swift from 1987 until October
8 of 2001, did any immigration raids by government
9 authorities take place at the Cactus plant?
10 MS. CANO: Objection, form.
11 A. No.
12 Q. And when you were working for Swift, were you
13 aware of any immigration raids planned by government
14 authorities at the Cactus plant that never took place?
15 A. No.
16 Q. When you worked for Swift from 1987 until
17 October of 2001, did you know if Swift assisted any
18 workers at the Cactus plant in obtaining false documents
19 relating to their identity or immigration status?
20 A. No.
21 Q. And when you were working for Swift, did you
22 know if the company provided any illegal immigrants
23 working at the Cactus plant with advice on how to avoid
24 detection by government authorities?
25 MS. CANO: Objection, form.

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1 A. No.
2 Q. And when you were working for Swift, did you
3 know if the company provided illegal immigrants with
4 advice on how to be hired or rehired at the Cactus plant?
5 A. No.
6 Q. While you were working at Swift from 1987 to
7 October of 2001, did you believe that your hourly pay was
8 lower because Swift had hired illegal immigrants at the
9 Cactus plant?
10 A. No.
11 Q. And while you were working for Swift, did you
12 hear anyone else working at the plant in Cactus say that
13 they thought their hourly pay was lower because Swift had
14 hired illegal immigrants?
15 A. No.
16 Q. And while you were working at Swift, did you
17 believe your hourly pay was lower because the company had
18 provided false documents to illegal immigrants?
19 A. No.
20 Q. Did you believe your hourly pay was lower while
21 you worked for Swift because the company had helped
22 illegal immigrants avoid detection by government
23 authorities?
24 A. I wasn't aware of any of that during the time I
25 was working there. I didn't know if they were hiring

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1 illegal aliens or not.
2 Q. After you left Swift in October of 2001, did you
3 obtain any information indicating that Swift had hired
4 illegal immigrants at the Cactus plant?
5 A. Yes.
6 Q. And what was that information?
7 A. A friend of mine told me about it.
8 Q. And who was that?
9 A. Lloyd Howard or -- I'm sorry. I just can't
10 pronounce his last name.
11 Q. Can you spell it for us?
12 A. No.
13 Q. And what did this person tell you?
14 A. He told me that two or three truckloads of
15 illegals had arrived there once we were let go. And he's
16 a supervisor there at -- or a foreman there at the
17 warehouse at the plant.
18 Q. Okay. So this person was a Swift employee?
19 A. Yes.
20 Q. And when did he tell you this information?
21 A. I'm not sure exactly when it was.
22 Q. Would it have been shortly after you left Swift
23 in October of 2001?
24 A. Yes. Yes, it was after.
25 Q. Was it within a few months, if you can recall,

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1 of when you left Swift?
2 A. I'm not sure.
3 Q. Would it have been more than a year after you
4 left Swift?
5 MS. CANO: Objection, form.
6 A. No.
7 Q. And where were you when this person gave you
8 this information?
9 A. We were at a friend's house.
10 Q. So you were not at the Cactus plant?
11 A. No.
12 Q. Did you ever return to the Cactus plant after
13 you left in October of 2001?
14 A. No.
15 Q. Tell me a little bit more about these two or
16 three truckloads. Were they people from a particular
17 location, such as Guatemala, or somewhere else?
18 MS. CANO: Objection, form.
19 A. No.
20 Q. And was it your understanding from this
21 conversation that the two or three truckloads of people
22 were not legally authorized to work in the United States?
23 A. Yes.
24 Q. And were those people, was it your
25 understanding, hired by Swift to work at the Cactus plant?

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1 A. I believe so.
2 Q. And other than this conversation we've been
3 talking about, after you stopped working at Swift, did you
4 hear any other information about Swift hiring illegal
5 immigrants at the Cactus plant?
6 A. No.
7 Q. Going back to when you were still working at
8 Swift prior to October of 2001, did you hear any other
9 people working at Swift say that they thought their hourly
10 pay was lower because Swift had provided false documents
11 to illegal immigrants?
12 A. No.
13 Q. And did you hear any other workers at Swift say
14 that they thought their hourly pay was lower because Swift
15 had helped illegal immigrants detect -- avoid detection by
16 government authorities?
17 MS. CANO: Objection, form.
18 A. No.
19 MS. CANO: Did you say a time period for
20 that one?
21 MR. EBERLE: On that one, I'm still talking
22 about when he was working at Swift.
23 MS. CANO: Okay.
24 A. I didn't.
25 Q. Let's talk now again about the period after you

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1 because the company had provided false documents to
2 illegal immigrants?
3 A. What I believe is that when I was laid off and
4 they hired these other people that were illegal, I believe
5 that we were laid off because they were paying them less
6 money to be able to save money.
7 Q. And what information do you have that these
8 other workers who you believed were unauthorized were paid
9 less by Swift than you were?
10 A. I don't have any information. This is just what
11 I believe.
12 Q. Did anyone tell you that these workers who you
13 believe were unauthorized were, in fact, being paid less
14 than you had been for the same job?
15 A. Less?
16 Q. Yes.
17 A. Less than they were paying me?
18 Q. Yes.
19 A. No, I don't know.
20 MR. EBERLE: I'll pass the witness.
21 MS. CANO: We'll reserve our questions.
22 (End of Proceedings.)
23
24
25

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1 left Swift in October of 2001.
2 A. Okay.
3 Q. Did you hear any information about Swift
4 providing false documents to illegal immigrants?
5 A. No.
6 Q. And after you left Swift, did you hear any
7 information about the company helping illegal immigrants
8 avoid detection by government authorities?
9 A. No.
10 Q. And have you ever heard any information about
11 Swift providing false documents to illegal immigrants at
12 any plants other than in Cactus?
13 A. No.
14 MR. EBERLE: Why don't we go ahead and take
15 a break. I think we're just about done.
16 (Recess from 9:51 a.m. to 9:57 a.m.)
17 Q. (BY MR. EBERLE) After you left work at Swift in
18 October of 2001, did you obtain any information that led
19 you to believe that your hourly pay had been lowered while
20 you were working at Swift because the company had hired
21 illegal immigrants?
22 A. No.
23 Q. And after you left working at Swift, did you
24 obtain any information leading you to believe that your
25 hourly pay had been lower while you worked at Swift

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1 CHANGES AND SIGNATURE
2 PAGE LINE CHANGE REASON
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 I, CANDELARIO G. ORTEGA, have read the foregoing
10 deposition and hereby affix my signature that same is true
11 and correct, except as noted above.
12 _____
13 CANDELARIO G. ORTEGA
14 STATE OF _____
15 COUNTY OF _____
16 Before me, _____, on this day
17 personally appeared CANDELARIO G. ORTEGA, known to me or
18 proved to me on the oath of _____ or through
19 _____ (description of identity card
20 or other document) to be the person whose name is
21 subscribed to the foregoing instrument and acknowledged to
22 me that he/she executed the same for the purpose and
23 consideration therein expressed.
24 Given under my hand and seal of office on this
25 _____ day of _____, 2008.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

CHANGES AND SIGNATURE

PAGE	LINE	CHANGE	REASON
8	16	Add "I was terminated on 5-1-03"	clarify
17	2	Add "But, I was terminated on 5-1-03"	"
17	20	"	"
18	10	"	"
19	2	"	"
22	19	"	"

I, CANDELARIO G. ORTEGA, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

Candelario Ortega
CANDELARIO G. ORTEGA

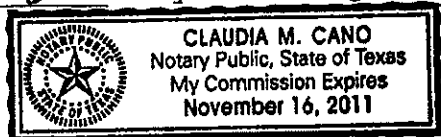
STATE OF TEXAS)

COUNTY OF MOORE)

Before me, Claudia M. Cano, on this day personally appeared CANDELARIO G. ORTEGA, known to me or proved to me on the oath of or through (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office on this

6th day of August, 2008.



Claudia M. Cano
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

My Commission Expires: 11-16-11

Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF TEXAS 3 DALLAS DIVISION 4 BLANCA VALENZUELA, MARGIE) 5 SALAZAR, JOSE E. SERRATO,) 6 JOSIE RENDON, CLARA TOVAR,) 7 CONSUELO ESPINO, MARIA) 8 AVILA, ERNESTINA) 9 NAVARRETTE, MARIA E.) 10 MUNOZ, AMANDA SALCIDO,) 11 CANDELARIO G. ORTEGA,) 12 MARIA ORTIZ, JOSE OLIVA,) 13 RAFAELA CHAVEZ, ELODIA) 14 ARROYO, SUSANA CARDIEL,) 15 GRACIE RIOS, AND LEONEL) 16 RUIZ, Individually and on) 17 behalf of all others) 18 similarly situated,) 19 Plaintiffs,) 20 vs.) 21 SWIFT BEEF COMPANY, INC.) 22 D/B/A SWIFT COMPANY,) 23 SWIFT & COMPANY, HICKS,) 24 MUSE, TATE & FURST, INC.,) 25 HM CAPITAL PARTNERS OF) DALLAS, LLC, and JOHN) DOES I-V,) Defendants.)</p> <p>CIVIL ACTION NO. 3:06-cv-02322-N</p> <p>ECF</p> <p>ORAL DEPOSITION OF RAFAELA CHAVEZ JULY 11, 2008</p>	<p>1 APPEARANCES 2 3 FOR THE PLAINTIFFS: 4 Ms. Claudia M. Cano 5 HEYGOOD, ORR, REYES, PEARSON & BARTOLOMEI 6 2331 W. Northwest Highway, 2nd Floor 7 Dallas, Texas 75220 8 Telephone: (214) 526-7900 9 E-mail: cano@reyeslaw.com 10 11 FOR THE DEFENDANTS: 12 Mr. Brian G. Eberle 13 SHERMAN & HOWARD, L.L.C. 14 633 Seventeenth Street, Suite 3000 15 Denver, Colorado 80202-3622 16 Telephone: (303) 297-2900 17 E-mail: beberle@shermanhoward.com 18 19 ALSO PRESENT: 20 Mr. Candelario G. Ortega 21 Ms. Linda Foster, Interpreter 22 23 24 25</p>
Page 2	Page 4
<p>1 ORAL DEPOSITION OF RAFAELA CHAVEZ, produced as a 2 witness at the instance of the Defendants and duly sworn, 3 was taken in the above-styled and numbered cause on the 4 11th day of July, 2008, from 8:39 a.m. to 9:21 a.m., 5 before Angie Weaver, Certified Shorthand Reporter in and 6 for the State of Texas, reported by computerized stenotype 7 machine at the offices of Mullin, Hoard & Brown, L.L.P., 8 500 S. Taylor, Suite 800, in the City of Amarillo, County 9 of Potter, State of Texas, pursuant to the Federal Rules 10 of Civil Procedure and the provisions stated on the record 11 or attached hereto. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 INDEX 2 3 Stipulations ----- 2 4 Appearances ----- 3 5 Exhibit Index ----- 4 6 Objections ----- 4 7 WITNESS: 8 RAFAELA CHAVEZ 9 Examination by MR. EBERLE 6 10 Signature and Changes ----- 26 11 Reporter's Certificate ----- 27 12 13 EXHIBITS 14 EXHIBIT DESCRIPTION PAGE 15 6 Attorney Employment Contract 12 16 17 OBJECTIONS 18 19 By Ms. Cano 10 10 20 By Ms. Cano 12 4 21 By Ms. Cano 13 11 22 By Ms. Cano 14 22 23 By Ms. Cano 15 4 24 By Ms. Cano 15 19 25 By Ms. Cano 16 11 By Ms. Cano 17 20 By Ms. Cano 17 24 By Ms. Cano 18 6 By Ms. Cano 18 11 By Ms. Cano 18 17 By Ms. Cano 19 6</p>

Page 5			Page 7		
1		PAGE LINE	1	interpret them for you --	
2	By Ms. Cano	19 10	2	THE INTERPRETER: Hold on. Hold on.	
	By Ms. Cano	21 14	3	(Discussion off the record.)	
3	By Ms. Cano	21 23	4	Q. (BY MR. EBERLE) Let me go back. As you know,	
	By Ms. Cano	22 3	5	we have an interpreter here today. And I'm going to ask	
4	By Ms. Cano	23 6	6	questions in English --	
	By Ms. Cano	23 18	7	THE INTERPRETER: I'm sorry.	
5	By Ms. Cano	24 8	8	(Discussion off the record.)	
6			9	Q. (BY MR. EBERLE) As you know, we have an	
7			10	interpreter here today. I'm going to ask questions in	
8			11	English. Ms. Foster will interpret them for you into	
9			12	Spanish. You will answer the questions in Spanish, and	
10			13	then Ms. Foster will interpret them into English so the	
11			14	court reporter can write them down. Is that okay?	
12			15	A. Yes.	
13			16	Q. And I want to review a few procedures for you	
14			17	for the deposition. Only one of us may speak at a time,	
15			18	so we may need to pause from time to time to allow	
16			19	Ms. Foster to finish interpreting. Is that okay?	
17			20	A. Okay. That's fine.	
18			21	Q. And even if you think you understand a question	
19			22	in English, Ms. Foster will interpret all questions into	
20			23	Spanish, and you should always answer in Spanish. Okay?	
21			24	A. That's fine.	
22			25	Q. All of your answers must be verbal in order for	
23					
24					
25					
Page 6			Page 8		
1	(Ms. Linda Foster sworn as interpreter.)		1	them to be reported by the court reporter, so it will be	
2	RAFAELA CHAVEZ,		2	important for you to answer yes or no or in other words	
3	having been first duly sworn, testified through the duly		3	rather than head gestures or something like that.	
4	sworn interpreter as follows:		4	A. That's fine.	
5	EXAMINATION		5	Q. And whenever I ask a question, I will assume	
6	BY MR. EBERLE:		6	that you understand it unless you tell me otherwise. So	
7	Q. Good morning.		7	if for any reason you don't understand a question, will	
8	A. Good morning.		8	you let me know.	
9	Q. Can you please state your full name.		9	A. That's fine.	
10	A. Rafaela Chavez.		10	Q. Do you understand that you've been sworn under	
11	Q. And my name is Brian Eberle. I introduced		11	oath?	
12	myself before. And I am one of the attorneys for the		12	A. Yes.	
13	Swift defendants in this case, and I'll be asking you some		13	Q. And even though this is an informal setting	
14	questions this morning, if that's okay.		14	today, do you understand it's just the same as if you were	
15	A. Okay. That's fine.		15	giving testimony in a court of law?	
16	Q. Do you speak any English?		16	A. Yes, sir.	
17	A. A little.		17	Q. And we can take a break any time you want, so	
18	Q. And are you able to read any English?		18	just let me know.	
19	A. A little.		19	A. That's fine.	
20	Q. Is it your preference to have documents in		20	Q. When did you start working for Swift at its	
21	English translated for you so that you can read them in		21	Cactus plant?	
22	Spanish?		22	A. September 29, 1978.	
23	A. In Spanish.		23	Q. And when we talk about the Cactus plant today,	
24	Q. As you know, we have an interpreter here today.		24	do you understand that we're talking about Swift's beef	
25	I'm going to ask questions in English. Ms. Foster will		25	processing plant that's in the area around Cactus and	

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1 Dumas, Texas?
2 A. Yes, sir.
3 Q. And you had your deposition taken in the last
4 year or two in another case involving Swift, correct?
5 A. Yes, sir.
6 Q. And I understand from that deposition that the
7 last day you received wages from Swift was July 10, 2003;
8 is that right?
9 A. July of 2003.
10 Q. And did you ever return to work at Swift after
11 that time?
12 A. No, sir.
13 Q. And I also understand that you were injured
14 while working for Swift. When did that occur?
15 A. Yes. I don't know the exact dates, but I was
16 injured.
17 Q. Would that have been sometime around maybe 1992?
18 A. Well, it's just that I had three injuries, and I
19 just don't recall the exact years.
20 Q. Did a doctor order any work restrictions for you
21 after any of those injuries?
22 A. Yes.
23 Q. And what were those restrictions?
24 A. On the first one, it was that I couldn't lift
25 more than 10 pounds. On the second one -- or, rather, I

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1 should say the third one, I couldn't pull, I couldn't
2 push, and I couldn't do any lifting over 10 pounds.
3 Q. Were those work restrictions ever lifted between
4 the time you were injured and when you left Swift in July
5 of 2003?
6 A. I never lifted them because the doctor told me
7 these were permanent restrictions.
8 Q. And were you moved to a cleaning job as a result
9 of those injuries?
10 MS. CANO: Objection, form.
11 A. The cleaning job -- I signed for the cleaning
12 job.
13 Q. And do you know approximately when that took
14 place, that change in jobs?
15 A. This was in the '90s, but I'm not really sure
16 when.
17 Q. It was before, say, 2000?
18 A. Yes. Yes, sir.
19 Q. And did you continue in that cleaning job until
20 the time you left Swift in July of 2003?
21 A. Until that day.
22 Q. Were you a member of a union the entire time you
23 were working for Swift?
24 A. The entire time.
25 Q. And were you born in Mexico?

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1 A. Yes, sir.
2 Q. And when did you move to the United States?
3 A. We obtained our legal documents in August of
4 '56.
5 Q. And when you say legal documents, what does that
6 mean?
7 A. Our residence passport. And I became a citizen
8 later on.
9 Q. Do you remember approximately when you became a
10 citizen?
11 A. I don't recall the year, but it was before 2000.
12 Q. Were you a United States citizen when you
13 started working for Swift?
14 A. No. I was just a resident.
15 Q. And you had -- you were legally authorized to
16 work in the United States when you started at Swift?
17 A. Yes. Yes.
18 Q. Did you review any documents to prepare for
19 today?
20 A. No, I haven't read anything.
21 Q. And did you meet with anyone, other than
22 Ms. Cano, to prepare for today?
23 A. No. No, I haven't prepared anything.
24 Q. Besides Ms. Cano, are there any other attorneys
25 representing you and the proposed class in this case?

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1 A. I believe I just have these attorneys. I've not
2 seen anyone. It's just them.
3 Q. You mean just Ms. Cano, who's here today?
4 MS. CANO: Objection, form.
5 A. She's here today. But I've seen other attorneys
6 before that are also with her.
7 Q. And who are those attorneys? Can you tell me
8 their names.
9 A. It was Domingo Garcia, and I'm sorry, I don't
10 recall the names of the other ones.
11 (Deposition Exhibit No. 6 marked for
12 identification.)
13 Q. You've been handed what's been marked as
14 Exhibit 6. And is that your handwriting? Yes.
15 A. Yes, sir. This one here, this signature.
16 Q. And that signature at the top is your
17 handwriting?
18 A. Yes, sir.
19 Q. And we're talking about -- that was on the first
20 page of Exhibit 6. And if you could turn to the second
21 page, please. Does your signature appear there as well?
22 A. Yes.
23 Q. And the date that's above your signature is
24 January 9, 2007. Is that the date on which you signed
25 Exhibit 6?

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1 A. Yes.
2 Q. Do you remember where you were when you signed
3 Exhibit 6?
4 A. I don't. I don't recall it because we had
5 interviews and -- I just don't recall.
6 Q. When you say interviews, do you mean you were at
7 your attorneys' office?
8 A. Yes.
9 Q. So you think you might have been at your
10 attorneys' office when you signed Exhibit 6?
11 MS. CANO: Objection, form.
12 A. I believe so.
13 Q. If you look on the second page of Exhibit 6,
14 there's a law firm name, the Heygood Orr law firm. Do you
15 see that?
16 A. Yes.
17 Q. How did you hear about the Heygood law firm?
18 A. Do you mean to ask me how I got in contact with
19 these attorneys?
20 Q. Correct.
21 MS. CANO: Without giving any
22 conversations.
23 A. Okay. I became aware of these attorneys -- is
24 that what you wanted --
25 Q. Yes.

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1 A. -- because of the people that were already
2 inside of it, that I was told that once I was -- that I
3 was told once I was laid off that I could go into -- I
4 could go in with these attorneys.
5 Q. And who told you that?
6 A. The people -- some of the people that were
7 already being interviewed that were already setting this
8 cause.
9 Q. So it was other people who are named as
10 plaintiffs in this case?
11 A. Yes, the same ones. We're all together.
12 Q. And can you identify any specific person who got
13 you in touch with the Heygood law firm?
14 A. Well, the head of us all, who is Blanca
15 valenzuela.
16 Q. Before you signed Exhibit 6 on January 9 of
17 2007, did you talk with anyone from the Heygood law firm
18 yourself? And don't tell me the substance, just whether
19 you did or not.
20 A. Relating what or --
21 Q. Anything.
22 MS. CANO: Objection, form.
23 A. I believe that when I signed the documents, I
24 have to have -- I have to have spoken to someone who gave
25 me this document, but I don't recall who it was.

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1 Q. And do you recall any other conversations --
2 again, don't tell me the substance -- other than about the
3 document itself, which is Exhibit 6?
4 MS. CANO: Objection, form.
5 A. No.
6 Q. Before you signed Exhibit 6, did you contact any
7 other attorneys about representing you and the proposed
8 class in this case?
9 A. No.
10 Q. Have you ever checked any references for any of
11 the attorneys at the Heygood law firm?
12 A. No.
13 Q. Do you know what types of legal work the
14 attorneys at the Heygood law firm do?
15 A. I don't understand the question. What do you --
16 Q. I just wanted to get an idea of whether you know
17 what types of law they practice at the Heygood law firm,
18 what type of legal work do they do, if you know.
19 MS. CANO: Objection, form.
20 A. I just believe they're attorneys. That's what I
21 believe.
22 Q. From the time you signed Exhibit 6 in January of
23 2007 through yesterday, did you have any communications
24 with any attorneys from the Heygood law firm?
25 A. Well, they have to be --

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1 MS. CANO: Don't talk about -- (discussion
2 in Spanish)
3 A. They have to be communicating with us about
4 being here and things like this.
5 THE INTERPRETER: And Ms. Cano said, I
6 don't want you to say anything about the conversations we
7 had. Listen to the question very carefully.
8 Q. And what I'd like you to tell me is simply how
9 many times you think you had communications with attorneys
10 from the Heygood law firm since you signed Exhibit 6.
11 MS. CANO: Objection, form.
12 A. I don't -- I don't recall how many times.
13 Q. Are you aware of any of the costs associated
14 with this class action?
15 A. I have no idea.
16 Q. Do you understand whether you are responsible
17 for paying any of the costs associated with this class
18 action?
19 A. No.
20 Q. So you don't understand one way or the other?
21 A. No, I don't -- I don't know.
22 Q. Do you know whether your attorneys in this case
23 have hired any expert witnesses?
24 A. No, I don't know anything.
25 Q. And do you know how much those attorneys may

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1 have paid to expert witnesses in this case?
2 A. No.
3 Q. Do you know how much it might cost to provide
4 notice in this case to class members?
5 A. No, I don't know that either.
6 Q. What do you know about the claims you are
7 asserting in this case on behalf of yourself and the
8 class?
9 A. What do I know about -- regarding what?
10 Q. What you're saying -- or what you're claiming on
11 behalf of you and the class that Swift did wrong.
12 A. I just believe that they let us go to hire other
13 people.
14 Q. Anything else?
15 A. I know that's what it's for.
16 Q. Do you know whether a class certification motion
17 has been filed?
18 A. Classification? What do you mean?
19 Q. Yes.
20 MS. CANO: Objection, form.
21 Q. Do you know whether there's been a motion filed
22 with the Court asking that a class of people be certified
23 in this case?
24 MS. CANO: Objection, form.
25 A. Certified?

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1 Q. Do you understand what the word certification
2 means?
3 A. No. No.
4 Q. Do you know what people are being proposed as
5 being members of a class in this case?
6 MS. CANO: Objection, form.
7 A. No.
8 Q. Do you know whether you have any
9 responsibilities as a class representative to other
10 members of the class in this case?
11 MS. CANO: Objection, form.
12 A. What kind of responsibilities are you talking
13 about?
14 Q. Well, I'm just wondering whether you believe
15 that you would have any responsibilities at all to other
16 members of the class.
17 MS. CANO: Objection, form.
18 A. I don't know.
19 Q. Do you understand that you have been proposed to
20 be a class representative in this case?
21 A. Yes.
22 Q. And what do you understand that to be?
23 A. I believe that that's the reason why I'm here
24 today, that's the reason why I was brought here today,
25 because I'm one of the members.

Page 19

1 Q. You understand that you have your own individual
2 claims; is that right?
3 A. Yes.
4 Q. And do you understand that you're also
5 representing claims by other people in this case?
6 MS. CANO: Objection, form.
7 A. Yes.
8 Q. And what do you understand to be the claims
9 being asserted by the other members of the class?
10 MS. CANO: Objection, form. Just for the
11 record, I want to make sure that we still have the same
12 agreement as yesterday, that objection to form preserves
13 all objections to form except as to privilege and
14 responsiveness of the answer.
15 MR. EBERLE: That's fine.
16 MS. CANO: Thank you.
17 MR. EBERLE: Did we get an answer or do we
18 need to go back?
19 THE INTERPRETER: Did we have an answer?
20 MS. CANO: No, you didn't get an answer.
21 THE REPORTER: No.
22 MR. EBERLE: Can you read the question.
23 (The record was read as requested.)
24 A. I believe the same ones I am.
25 Q. Let me hand you what's been marked before as

Page 20

1 Exhibit 2, and this is the Original Complaint filed on
2 December 15, 2006. Have you ever seen this document
3 before?
4 A. The one from 2006?
5 Q. Yes.
6 A. No.
7 Q. You'll see on the first page of Exhibit 2,
8 there's a defendant called Hicks, Muse, Tate & Furst. Do
9 you know what that company is?
10 A. No.
11 Q. Do you know whether Hicks Muse has been
12 dismissed as a defendant in this case?
13 A. No, I don't know anything.
14 Q. Let me hand you what's been marked as Exhibit 3,
15 and this is the First Amended Complaint filed on
16 December 28, 2006. Have you ever seen Exhibit 3 before?
17 A. No.
18 Q. And this complaint -- or amended complaint has a
19 defendant named HM Capital Partners of Dallas, LLC. Do
20 you see that?
21 A. Yes.
22 Q. Do you know who HM Capital Partners is?
23 A. No.
24 Q. And do you know whether HM Capital Partners has
25 been dismissed as a defendant in this case?

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1 A. I don't know.
2 Q. And let me hand you what's been marked as
3 Deposition Exhibit 4. This is the Second Amended
4 Complaint filed on March 14, 2008. Have you seen
5 Exhibit 4 before?
6 A. No.
7 Q. When you were working for Swift from 1978 until
8 July of 2003, did you know if Swift hired anyone at the
9 Cactus plant who was not legally authorized to work in the
10 United States?
11 A. That's what was heard. I don't know.
12 Q. Okay. So you heard -- can I call them rumors --
13 about that?
14 MS. CANO: Objection, form.
15 A. These were rumors.
16 Q. But you don't have any specific information
17 about Swift hiring any unauthorized workers at its Cactus
18 plant?
19 A. I don't have any specifics.
20 Q. Do you know anything about Swift's hiring
21 practices at any of its plants other than in Cactus,
22 Texas?
23 MS. CANO: Objection, form.
24 A. No. No, I don't know.
25 Q. When you were working for Swift from 1978 to

Page 23

1 A. No.
2 Q. While you were working at Swift from 1978 to
3 2003, did you believe your hourly pay was lower because
4 Swift had hired illegal immigrants at the Cactus plant?
5 A. Mine was never reduced.
6 MS. CANO: Objection, nonresponsive.
7 THE INTERPRETER: Let me change that to
8 lowered.
9 Q. While you were working for Swift, did you hear
10 anyone else working at the Cactus plant say that they
11 thought their hourly pay was lower because Swift had hired
12 illegal immigrants?
13 A. No, I didn't hear that said.
14 Q. While you were working for Swift, did you
15 believe that your hourly pay was lower because Swift had
16 provided false documents to illegal immigrants or helped
17 them avoid detection by government authorities?
18 MS. CANO: Objection, form.
19 A. Are you asking me if my pay was lowered?
20 Q. Yes.
21 A. Mine was never lowered.
22 Q. And then while you were working at Swift, did
23 you hear anyone else say that they thought their pay had
24 been lowered because Swift had provided false documents to
25 illegal immigrants?

Page 22

1 2003, did any immigration raids by government authorities
2 take place at the Cactus plant?
3 MS. CANO: Objection, form.
4 A. After I left in -- after I left in 2003, I did
5 become aware of the raid that there was.
6 Q. But before you left working at Swift, were you
7 aware of any immigration raids?
8 A. No. No, there hadn't been.
9 Q. And while you were working at Swift, did you
10 become aware of any immigration raids by government
11 authorities that had been planned but did not take place?
12 A. No, I was never aware of it.
13 Q. When you were working at Swift from 1978 to
14 2003, did you know if Swift assisted any workers at the
15 Cactus plant in obtaining false documents relating to
16 their identity or immigration status?
17 A. No, I don't know.
18 Q. And while you were working at Swift, did you
19 know if Swift provided illegal immigrants working at the
20 Cactus plant with advice on how to avoid detection by
21 government authorities?
22 A. No. No, not that either.
23 Q. When you were working for Swift, did you know if
24 the company provided illegal immigrants with advice on how
25 to be hired or rehired at the Cactus plant?

Page 24

1 A. Never. I never heard that.
2 Q. After you left Swift in July of 2003, did you
3 hear anything about Swift hiring illegal immigrants at the
4 Cactus plant?
5 A. That's what was heard. That's what is still
6 heard.
7 Q. Okay. Again, is that just rumors?
8 MS. CANO: Objection, form.
9 A. They're rumors.
10 Q. And who, if anyone, can you recall talking about
11 that subject?
12 A. Just -- it just comes up in conversations people
13 have. I have no --
14 Q. You can't identify a specific person who you've
15 talked to about that subject?
16 A. These are just rumors that are heard in
17 conversations, not with me, just rumors, just
18 conversations.
19 Q. And after you left Swift in July of 2003, did
20 you hear anything about Swift providing false documents to
21 illegal immigrants?
22 A. I haven't heard it.
23 Q. And did you hear anything about Swift helping
24 illegal immigrants avoid detection by government
25 authorities after you left the company?

Page 25

Page 27

1 A. I haven't heard it. I barely have any
2 communication with the people.
3 Q. Since you left Swift in July of 2003, have you
4 returned to the plant at all?
5 A. Oh, what did I go back for? No, it was just
6 after I was -- I would like go -- I did go back for my
7 last check. That's it.
8 Q. And have you ever heard any information about
9 Swift hiring illegal immigrants at plants other than in
10 Cactus?
11 A. That's what's heard, these rumors, but no.
12 Q. And have you ever heard any information that
13 Swift has provided false documents to illegal immigrants
14 at plants other than Cactus?
15 A. No. No, I don't know.
16 MR. EBERLE: Why don't we take a break.
17 (Recess from 9:14 a.m. to 9:20 a.m.)
18 MR. EBERLE: I'll pass the witness.
19 THE WITNESS: That was it? Okay.
20 MS. CANO: Then I'll reserve my questions.
21 (End of Proceedings.)
22
23
24
25

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION
4 BLANCA VALENZUELA, MARGIE)
5 SALAZAR, JOSE E. SERRATO,)
6 JOSIE RENDON, CLARA TOVAR,)
7 CONSUELO ESPINO, MARIA)
8 AVILA, ERNESTINA)
9 NAVARRETTE, MARIA E.)
10 MUNOZ, AMANDA SALCIDO,)
11 CANDELARIO G. ORTEGA,)
12 MARIA ORTIZ, JOSE OLIVA,)
13 RAFAELA CHAVEZ, ELODIA)
14 ARROYO, SUSANA CARDIEL,)
15 GRACIE RIOS, AND LEONEL)
16 RUIZ, Individually and on)
17 behalf of all others)
18 similarly situated,)
19 Plaintiffs,) CIVIL ACTION NO.
20) 3:06-cv-02322-N
21 vs.) ECF
22)
23 SWIFT BEEF COMPANY, INC.)
24 D/B/A SWIFT COMPANY,)
25 SWIFT & COMPANY, HICKS,)
MUZE, TATE & FURST, INC.,)
HM CAPITAL PARTNERS OF)
DALLAS, LLC, and JOHN)
DOES I-V,)
Defendants.)
REPORTER'S CERTIFICATION
ORAL DEPOSITION OF RAFAELA CHAVEZ
JULY 11, 2008
I, ANGIE WEAVER, Certified Shorthand Reporter in and
for the State of Texas, hereby certify to the following:
That the witness, RAFAELA CHAVEZ, was duly sworn by
the officer and that the transcript of the oral deposition
is a true record of the testimony given by the witness and

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Page 28

1 CHANGES AND SIGNATURE
2 PAGE LINE CHANGE REASON
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 I, RAFAELA CHAVEZ, have read the foregoing deposition
10 and hereby affix my signature that same is true and
11 correct, except as noted above.
12 _____
13 RAFAELA CHAVEZ
14 STATE OF _____
15 COUNTY OF _____
16 Before me, _____, on this day
17 personally appeared RAFAELA CHAVEZ, known to me or proved
18 to me on the oath of _____ or through
19 _____ (description of identity card
20 or other document) to be the person whose name is
21 subscribed to the foregoing instrument and acknowledged to
22 me that he/she executed the same for the purpose and
23 consideration therein expressed.
24 Given under my hand and seal of office on this
25 _____ day of _____, 2008.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

1 any exhibits marked as evidence.
2 That the deposition transcript was submitted on
3 _____, 2008 to the witness or to the attorney
4 for the witness for examination, signature, and return to
5 me by _____, 2008.
6 That the amount of time used by each party at the
7 deposition is as follows:
8 MR. BRIAN G. EBERLE - (00:35)
9 That pursuant to information given to the deposition
10 officer at the time said testimony was taken, the
11 following includes all parties of record:
12 Ms. Claudia M. Cano, Attorney for Plaintiffs
13 Mr. Brian G. Eberle, Attorney for Defendants
14 I further certify that I am neither counsel for,
15 related to, nor employed by any of the parties in the
16 action in which this proceeding was taken, and further
17 that I am not financially or otherwise interested in the
18 outcome of this action.
19 Certified to by me on this _____ day of
20 _____, 2008.
21 _____
22 ANGIE WEAVER, CSR
23 Texas CSR #4450 (Exp. 12/31/08)
24 Firm No. 23
25 AMARILLO COURT REPORTING, INC.
P. O. Box 19628
Amarillo, Texas 79114
(806) 374-4091

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BLANCA VALENZUELA, MARGIE)
SALAZAR, JOSE E. SERRATO,)
JOSIE RENDON, CLARA TOVAR,)
CONSUELO ESPINO, MARIA)
AVILA, ERNESTINA)
NAVARRETTE, MARIA E.)
MUNOZ, AMANDA SALCIDO,)
CANDELARIO G. ORTEGA,)
MARIA ORTIZ, JOSE OLIVA,)
RAFAELA CHAVEZ, ELODIA)
ARROYO, SUSANA CARDIEL,)
GRACIERIOS, AND LEONEL)
RUIZ, Individually and on)
behalf of all others)
similarly situated,)

Plaintiffs,)

vs.)

SWIFT BEEF COMPANY, INC.)
D/B/A SWIFT COMPANY,)
SWIFT & COMPANY, HICKS,)
MUSE, TATE & FURST, INC.,)
HM CAPITAL PARTNERS OF)
DALLAS, LLC, and JOHN)
DOES I - V,)

Defendants.)

CIVIL ACTION NO.
3:06-cv-02322-N

ECF

ORAL DEPOSITION OF
ERNESTINA NAVARRETE
AUGUST 7, 2008

2

ORAL DEPOSITION OF ERNESTINA NAVARRETE, produced as a witness at the instance of the Defendants and duly sworn, was taken in the above-styled and numbered cause on the 7th day of August, 2008, from 1:05 p.m. to 2:10 p.m., before Angie Weaver, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Mullin, Hoard & Brown, L.L.P., 500 S. Taylor, Suite 800, in the City of Amarillo, County of Potter, State of Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

4

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WITNESS:
ERNESTINA NAVARRETE

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EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
14	Attorney Employment Contract	9
15	Leave of Absence; 05-15-02 letter from U.S. Department of Justice, Immigration and Naturalization Service	17

OBJECTIONS

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By Ms. Cano	22	14

3

APPEARANCES

FOR THE PLAINTIFFS:
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Telephone: (303) 297-2900
E-mail: beberle@shermanhoward.com

ALSO PRESENT:
Mr. Johnnie Benningfield, Interpreter
Ms. Rafaela Chavez

5

(Mr. Johnnie Benningfield sworn as interpreter.)

ERNESTINA NAVARRETE,

having been first duly sworn, testified through the duly sworn interpreter as follows:

EXAMINATION

BY MR. EBERLE:

Q. Can you please state your full name.

A. Ernestina Navarrete.

Q. And can you please spell your last name.

A. N-A-V-A-R-R-E-T-E.

Q. And I introduced myself earlier. My name is Brian Eberle, and I am one of the attorneys for the Swift defendants. Do you speak any English?

A. A little bit, but I prefer Spanish better.

Q. So it's your preference that we have the interpreter present here today?

A. Yes.

Q. Are you able to read in English?

A. No.

Q. As you know, we have Mr. Benningfield here today as the interpreter, and I'm going to ask you questions in English. He will interpret them for you into Spanish. Do you understand?

A. Yes.

6

8

1 Q. And then you will answer in Spanish and he will
2 interpret those answers back into English for the court
3 reporter to take down.

4 A. Okay.

5 Q. Did you have your deposition taken previously in
6 the -- in another case against Swift?

7 A. Yes.

8 Q. Okay. We will follow the same procedures as
9 that deposition, then. Is that okay?

10 A. Yes.

11 Q. All of your answers must be verbal in order for
12 them to be recorded by the court reporter, so it will be
13 important for you to answer yes, no or with words.

14 A. Okay.

15 Q. And whenever I ask a question, I will assume
16 that you understand it unless you tell me otherwise. If
17 for any reason you don't understand a question I'm asking,
18 will you let me know.

19 A. Yes.

20 Q. Do you understand that you have been sworn under
21 oath today?

22 A. Yes.

23 Q. Even though this is an informal setting, do you
24 understand that it's just the same as if you were
25 testifying in a court of law?

7

9

1 A. Can you explain that to me one more time.

2 Q. Yes. Even though we're not in a court today, do
3 you understand that it's just as if you were giving
4 testimony before a judge?

5 A. Yes.

6 Q. When did you first start working for Swift at
7 its Cactus plant?

8 A. In 2000. In August of 2000.

9 Q. When we talk about the Cactus plant today, do
10 you understand that it is Swift's beef processing plant in
11 the area around Cactus and Dumas, Texas?

12 A. Yes.

13 Q. And I understand that the last day you received
14 wages from Swift was March 10, 2003. Is that right?

15 A. Yes.

16 Q. Did you ever return to work at Swift after
17 March 10, 2003?

18 A. No.

19 Q. Have you ever worked for Swift anywhere other
20 than the Cactus, Texas, plant?

21 A. No.

22 Q. I understand that you were injured while working
23 for Swift in approximately December 2001. Is that right?

24 A. Yes.

25 Q. Did a doctor order any work restrictions for you

after that injury?

A. Yes. I was imposed with the restriction of not
lifting heavy things.

Q. Were those restrictions lifted at any time after
your injury and before you stopped working for Swift?

A. No.

Q. When you applied to work for Swift in 2000, were
you a United States citizen?

A. I was a resident.

Q. Did you have a work visa of some type?

A. Yes, my work permit. And I currently have my
residency.

Q. Were you born in Mexico?

A. Yes.

Q. When did you move to the United States?

A. In '94.

Q. Did you review any documents or papers to
prepare for your deposition today?

A. No.

Q. Did you meet with anyone other than Ms. Cano to
prepare for your deposition today?

A. No, just with her.

Q. And besides Ms. Cano, are there any other
attorneys representing you in this case?

A. Just she and the other one. What's his name?

MS. CANO: Just whatever you recall.

Q. So you don't remember the other attorney's name?

A. No. Right now we're just with her.

(Deposition Exhibit No. 14 marked for
identification.)

Q. Let me hand you what's been marked as Deposition
Exhibit 14. Does your handwriting appear at the top of
Exhibit 14 on the first page?

A. Yes.

Q. And on the second page of Exhibit 14, does your
handwriting also appear in the middle of the page?

A. Yes, right here.

Q. And when did you sign Exhibit 14?

A. Here it says January the 9th of 2007.

Q. Do you recall where you were when you signed
Exhibit 14?

A. I believe I signed it there in Dumas.

Q. Do you remember if you were with anyone else at
the time?

A. This was given to us by the attorneys.

Q. And were you meeting with an attorney at the
time you signed Exhibit 14?

A. We were there with Reyes, all of us together.

Q. And who are the all of us you referred to?

A. Those of us that are in this case.

10

12

1 Q. Just to the right of your name on the second
2 page of Exhibit 14, do you see that there is a typewritten
3 entry for a law firm named Heygood Orr?

4 A. Here is the name. And then it says, by Angel
5 Reyes, and then there's a signature.

6 Q. How did you hear about the Heygood law firm
7 before you signed Exhibit 14?

8 A. They were recommended by Domingo Garcia.

9 Q. Was he your attorney in the other lawsuit
10 against Swift?

11 A. Yes.

12 Q. Before the meeting you described on January 9,
13 2007, do you remember talking to any attorneys at the
14 Heygood law firm?

15 A. I don't recall.

16 Q. Before you signed Exhibit 14, did you contact
17 any other attorneys about representing you and the class
18 in this case?

19 A. Just them.

20 Q. Do you know what experience the attorneys at the
21 Heygood law firm have in class actions?

22 A. I don't understand your question.

23 Q. Yes. Do you know whether the attorneys at the
24 Heygood law firm have other experience in class actions
25 like this one?

11

13

1 A. Well, they helped us in the other case.

2 Q. And that -- you're referring to the case that
3 was separately brought against Swift?

4 A. Well, in the other case, they and Domingo helped
5 us.

6 Q. And you're referring to your other lawsuit
7 against Swift?

8 A. The one in which we were -- our work was
9 terminated on us while we were working there.

10 Q. Before you signed Exhibit 14, did you check any
11 references for any of the attorneys at the Heygood law
12 firm?

13 A. What are you asking me? Did someone refer me to
14 them?

15 Q. No. I'm asking whether you tried to find out
16 from other people information about the Heygood law firm.

17 A. Oh, no.

18 Q. Do you know what types of legal work the
19 attorneys at the Heygood firm do?

20 A. Well, they helped us already in the other case.
21 They helped us in the other case. How can I explain this
22 to you?

23 Q. Other than that case, are you aware of other
24 types of legal work that the Heygood law firm has done?
25

A. No.

Q. Are you aware of any of the costs or expenses
for this class action?

A. No. Well, there will be no charge if nothing is
gained.

Q. Let me clarify my question. Separate from
monies paid to the attorneys, are there any expenses that
you understand might have to be paid for this class
action?

A. Can you explain that to me one more time.
That's kind of difficult for me.

Q. Yes. Obviously your attorneys would like to be
paid something for working on this case. Separate from
those attorneys' fees, are you aware of any costs or
expenses that might be incurred in this class action?

A. Oh, how can I answer that?

MS. CANO: If you understand or if you
know. If you don't know, then you can --

A. I can't give you an explanation.

Q. Do you know if you're responsible for paying any
of the costs or expenses in this case?

A. No.

Q. Do you know whether your attorneys have hired
any expert witnesses in this case?

A. What is that?

Q. Do you know how much it might cost to provide

notice to class members in this case?

A. No.

Q. Going back to my prior question, do you
understand what an expert witness is?

A. A witness?

Q. Yes, an expert witness.

A. Well, there are like detectives, right? Aren't
there?

Q. Maybe I should just back up and reask whether
you're aware of any expert witnesses that have been hired
by your attorneys in this case.

A. Witnesses?

MS. CANO: Do you understand the question?

A. No.

MS. CANO: It's important that you say you
don't understand.

A. Okay.

Q. Let me just try one more, then. Do you
understand what types of expert witnesses might be used in
this type of case?

A. Are you asking about like private detectives?

Q. Whatever your understanding is, if any.

A. We have a detective.

Q. Okay. Who is that?

MS. CANO: I'm not sure if that's -- I'm

14

16

1 not going to allow her to answer that question.

2 MR. EBERLE: I think I can -- I don't think
3 it's privileged to know who the person is. I can
4 certainly -- if there's some issue about privilege, it
5 would apply to communications with that person.

6 MS. CANO: I'm not going to let her answer
7 any type of question about that.

8 Q. Separate from any private detectives, are you
9 aware of any other types of expert witnesses that might be
10 used in this case?

11 A. No.

12 Q. What do you understand are the claims that you
13 are asserting against Swift in this case?

14 A. Are you asking what benefits I have or what?

15 Q. No. I want to know what you think Swift did
16 wrong as the reason for bringing this lawsuit against
17 Swift.

18 A. They fired -- they terminated us.

19 Q. Anything more specific about what's wrong with
20 terminating your employment?

21 A. Well, they terminated us because our arms were
22 hurt. Our arms had been hurt there, and it was for that
23 reason that they terminated us.

24 Q. Are there any other things that you think Swift
25 has done wrong that you're trying to get relief for in

A. Well, that would be Blanca Valenzuela. We're
all in the group. We're all on -- we're all on the paper.
We're seventeen, we're eighteen, since we're all a group.

Q. In addition to that group, however, do you
understand that you are representing other current or
former Swift employees?

A. They were employees of Swift?

Q. Yes.

A. Yes. Well, they were employees just like I was.
They all were.

Q. Are you referring to the other sixteen or
seventeen plaintiffs?

A. Yes.

Q. Setting aside that group of seventeen or
eighteen people, do you understand that you're
representing more current and former employees of Swift?

A. That they have previously fired?

Q. Or that still work for the company.

A. Well, yes. We are a group.

Q. I understand that you have a group of seventeen
or eighteen plaintiffs, but I'll just ask one more time
whether you know or don't know if there are other current
or former employees of Swift that you also represent in
this case.

MS. CANO: Objection, form.

15

17

1 this case?

2 A. Yes, because we were fired without reason. We
3 were hurt there and then they threw us out.

4 Q. Anything else?

5 A. No.

6 Q. Do you know whether a motion for class
7 certification has been filed in this case?

8 A. I don't understand that question.

9 Q. Do you understand whether other people in
10 addition to the eighteen named plaintiffs are also seeking
11 to recover money from Swift in this case?

12 A. Are you asking if there are other people besides
13 us?

14 Q. Yes.

15 A. You mean people that they have fired?

16 Q. Yes.

17 A. Well, I don't know any people that they have
18 fired.

19 Q. Do you understand that you have been proposed as
20 a class representative in this case?

21 A. Well, we're here.

22 Q. I understand that you're a plaintiff in this
23 case, but my question is whether you understand that
24 you're also representing other people who are not named as
25 plaintiffs.

A. I don't know.

(Deposition Exhibit No. 15 marked for
identification.)

Q. Let me hand you what's been marked as Deposition
Exhibit 15. And if we look at the second page, is this a
notice that you received from the Immigration and
Naturalization Service on May 15, 2002?

A. Yes. This sheet?

Q. Yes. Was this something that you received, the
second page of Exhibit 15?

A. Yes.

Q. And this is addressed to Ernestina Aguilar?

A. Yes. That's my last name from when I was
single.

Q. What did you understand the second page of
Exhibit 15 to be?

A. I don't know.

Q. Did it require you to go to be interviewed by
the Immigration and Naturalization Service?

A. Okay. This was when my work permit was going to
run out, I think. Because I went in to work in 2000, and
the work permit is good for a year, so it was going to run
out at this time.

Q. So did you go to an interview with the
Immigration and Naturalization Service to renew your work

18

20

1 visa?

2 A. Yes. Yes, I also did the 2003. I have my 2003
3 residency.

4 Q. What documents did you bring with you to your
5 interview in 2002, if any?

6 A. I took the work permit letter and this sheet, I
7 believe. It was like this.

8 Q. And is the first page of Exhibit 15 your request
9 to Swift to allow you a leave of absence to go to the
10 interview with INS?

11 A. Yes. They sent me a letter stating that my work
12 permit was going to run out and I needed to go to
13 immigration. I have my residency here if you'd like to
14 see it.

15 Q. I don't question that. What I was wondering,
16 though, is whether Swift gave you permission to leave work
17 to go to this interview with the INS.

18 A. Yes.

19 Q. And you were permitted to return to work at
20 Swift's Cactus plant after your 2002 interview with INS?

21 A. Yes.

22 Q. And was it your understanding that the INS
23 determined that you were legally authorized to work in the
24 United States?

25 A. Yes.

19

21

1 Q. Let me hand you what's previously been marked as
2 Deposition Exhibit 2. This was the Original Complaint in
3 this case filed on December 15, 2006. Do you recall
4 having seen Exhibit 2 before today?

5 A. Yes. It was sent to us in the mail.

6 Q. Was Exhibit 2 ever translated for you into
7 Spanish?

8 A. Let me see. Just this part here above or the
9 whole thing?

10 Q. The whole thing.

11 A. I don't remember. But I do have it at home. I
12 don't know if it's in English or if it's in Spanish.

13 Q. You'll see on the first page of Exhibit 2,
14 there's a reference to a defendant, Hicks, Muse, Tate &
15 Furst. Do you know who that company is?

16 A. This one right here?

17 Q. Yes.

18 A. It's the company. I just knew it under the name
19 as Swift & Company.

20 Q. So you thought that Hicks Muse was the same as
21 Swift & Company?

22 A. No. I didn't know exactly the meaning of that.

23 Q. You didn't know the meaning of Hicks Muse?

24 A. No.

25 Q. Do you know whether Hicks Muse has been

dismissed as a defendant in this case?

A. I just know them as Swift & Company. I didn't
know this.

Q. You didn't know that Hicks Muse was a separate
defendant in the case?

A. No, I did not know.

Q. Let me hand you what's been marked as Deposition
Exhibit 3.

A. Okay. I have a question. The phone number on
here is no longer the same number. Is that okay?

Q. Oh, that's fine. Go back to Exhibit 3. And
this is the First Amended Complaint in this case filed on
December 28, 2006. Do you remember seeing Exhibit 3
before today?

A. Well, we've got a lot of papers. This is the
same as the other one, isn't it?

Q. Well, that's one of my questions. Do you know
if there are any differences between Exhibit 2 and
Exhibit 3?

A. This one here is in Spanish? No.

Q. Let me back up and let me ask you that question
first. Do you remember ever receiving Exhibit 3 in
Spanish?

A. Yes. It's that I've received so much that by
now, well, I don't know if I have them in English or in

Spanish.

Q. Before today, have you tried to compare
Exhibits 2 and 3 to see how they are different, if at all?

A. This is different.

Q. What is this you're pointing to?

A. This portion here below Swift Company, there's
more underneath it than there is on this other one, right?

Q. But separate from trying to compare them right
now, have you tried to before today compare what's in
Exhibits 2 and 3?

A. Well, they have the same names that we have here
below.

MS. CANO: Listen carefully to the
question.

Q. All I want to know is, before today, not looking
at them now, but before today, did you ever try to compare
Exhibits 2 and 3 to see if they're different at all?

A. I don't understand your question.

MS. CANO: Maybe you want to ask her what
part -- is there some specific word or something --

MR. EBERLE: No, I'm just --

MS. CANO: -- that she doesn't understand.

Q. What I'm trying to find out is whether before
today you tried to determine what was different, if at
all, between Exhibits 2 and 3.

22

24

MS. CANO: Do you understand the question?

A. No.

Q. Let me ask you a different question. You pointed out that HM Capital Partners of Dallas appears on Exhibit 3 but not on Exhibit 2, correct?

A. Which one is it? Oh, it doesn't show up over here on this one, this one.

Q. So it doesn't show up on Exhibit 2?

A. This portion is the same. Is that what you're asking me, if this is the same?

Q. All I'm asking is whether HM Capital Partners of Dallas is listed as a defendant in Exhibit 2. Is it listed here?

MS. CANO: Objection, form.

A. On this document, it is not. It is here.

Q. So it's not on Exhibit 2, but it is on Exhibit 3?

A. Yes.

Q. Do you know why HM Capital Partners of Dallas was added as a defendant in Exhibit 3?

A. No, I don't know.

Q. Do you know whether HM Capital Partners has been dismissed as a defendant in this case?

A. Is HM Capital Partners one of the defendants here?

anything about Swift providing false documents to illegal immigrants?

A. No.

Q. While you were working for Swift, did you hear anything about Swift giving illegal immigrants advice on how to avoid detection by government authorities?

A. No.

Q. Do you have any information about Swift hiring illegal immigrants at any of its plants other than in Cactus, Texas?

A. No.

Q. Do you know anything about Swift's employment practices at any plants other than in Cactus?

A. No.

Q. While you were working for Swift, did you believe that your hourly pay was lower because illegal immigrants worked at the Cactus plant?

A. No.

Q. Did you hear anyone else working at Swift say that they thought their hourly pay was lower because illegal immigrants worked at the Cactus plant?

A. No.

Q. Have you ever returned to the Cactus plant since you left working there on March 10, 2003?

A. No.

23

25

Q. That's my question to you. Do you know whether they are?

A. I don't know. I just know that it is those of us that are here.

Q. And by those of us, you're referring to the plaintiffs?

A. The ones of us that are in the group.

Q. We talked earlier about your working for Swift at the Cactus plant until March 10, 2003, correct?

A. Yes.

Q. While you were working for Swift, did you know whether Swift was hiring any illegal immigrants to work at the Cactus plant?

A. It was spoken there that there were illegals there.

Q. And who was speaking that?

A. The people there would talk about it.

Q. Can you identify any specific person who was talking about that?

A. No, because it would be like while we were at lunch, eating.

Q. When you were working for Swift, did any immigration raids by government authorities take place?

A. No.

Q. When you were working for Swift, did you hear

Q. Have you heard any information since you left working at Swift about the company hiring illegal immigrants?

A. I do -- I do have a question. I have a friend of mine, she went there to request work.

THE INTERPRETER: I'm sorry. The interpreter didn't understand. May I ask for her to repeat?

MR. EBERLE: Sure.

A. I have a work companion where I work right now, she went to request work. They did not give work to her, and she has papers. She said that there were other people there and they did give work to other people, but they did not give work to her.

Q. Okay. And is there a question that you have about that?

A. Well, is that what you were asking about?

Q. Actually, what I was asking was whether you've heard that Swift at the Cactus plant has given work to people who are not legally authorized to work in the United States.

A. Well, that's the only evidence that I have.

Q. Since you left working for Swift, have you heard any information about the company providing false documents to illegal immigrants?

26

28

A. I haven't heard that.

MR. EBERLE: Why don't we take a break.
(Recess from 2:05 p.m. to 2:10 p.m.)

MR. EBERLE: I have no further questions,
so I'll pass the witness.

MS. CANO: And we reserve our questions.
(End of Proceedings.)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BLANCA VALENZUELA, MARGIE)
SALAZAR, JOSE E. SERRATO,)
JOSIE RENDON, CLARA TOVAR,)
CONSUELO ESPINO, MARIA)
AVILA, ERNESTINA)
NAVARRETTE, MARIA E.)
MUNOZ, AMANDA SALCIDO,)
CANDELARIO G. ORTEGA,)
MARIA ORTIZ, JOSE OLIVA,)
RAFAELA CHAVEZ, ELODIA)
ARROYO, SUSANA CARDIEL,)
GRACIE RIOS, AND LEONEL)
RUIZ, Individually and on)
behalf of all others)
similarly situated,)

) CIVIL ACTION NO.
) 3:06-cv-02322-N

Plaintiffs,)
)
vs.) ECF

)
SWIFT BEEF COMPANY, INC.)
D/B/A SWIFT COMPANY,)
SWIFT & COMPANY, HICKS,)
MUSE, TATE & FURST, INC.,)
HM CAPITAL PARTNERS OF)
DALLAS, LLC, and JOHN)
DOES I-V,)

)
Defendants.)

REPORTER'S CERTIFICATION
ORAL DEPOSITION OF ERNESTINA NAVARRETE
AUGUST 7, 2008

I, ANGIE WEAVER, Certified Shorthand Reporter in and
for the State of Texas, hereby certify to the following:

That the witness, ERNESTINA NAVARRETE, was duly sworn
by the officer and that the transcript of the oral
deposition is a true record of the testimony given by the

27

29

CHANGES AND SIGNATURE
PAGE LINE CHANGE REASON

I, ERNESTINA NAVARRETE, have read the foregoing
deposition and hereby affix my signature that same is true
and correct, except as noted above.

ERNESTINA NAVARRETE

STATE OF _____
COUNTY OF _____

Before me, _____, on this day
personally appeared ERNESTINA NAVARRETE, known to me or
proved to me on the oath of _____ or through
_____ (description of identity card
or other document) to be the person whose name is
subscribed to the foregoing instrument and acknowledged to
me that he/she executed the same for the purpose and
consideration therein expressed.

Given under my hand and seal of office on this

_____ day of _____, 2008.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

My Commission Expires: _____

witness and any exhibits marked as evidence.

That the deposition transcript was submitted on
_____, 2008 to the witness or to the attorney
for the witness for examination, signature, and return to
me by _____, 2008.

That the amount of time used by each party at the
deposition is as follows:

MR. BRIAN G. EBERLE - (01:00)

That pursuant to information given to the deposition
officer at the time said testimony was taken, the
following includes all parties of record:

Ms. Claudia M. Cano, Attorney for Plaintiffs

Mr. Brian G. Eberle, Attorney for Defendants

I further certify that I am neither counsel for,
related to, nor employed by any of the parties in the
action in which this proceeding was taken, and further
that I am not financially or otherwise interested in the
outcome of this action.

Certified to by me on this _____ day of
_____, 2008.

ANGIE WEAVER, CSR
Texas CSR #4450 (Exp. 12/31/08)
Firm No. 23
AMARILLO COURT REPORTING, INC.
P. O. Box 19628
Amarillo, Texas 79114
(806) 374-4091

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BLANCA VALENZUELA, MARGIE)
SALAZAR, JOSE E. SERRATO,)
JOSIE RENDON, CLARA TOVAR,)
CONSUELO ESPINO, MARIA)
AVILA, ERNESTINA)
NAVARRETTE, MARIA E.)
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CANDELARIO G. ORTEGA,)
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RAFAELA CHAVEZ, ELODIA)
ARROYO, SUSANA CARDIEL,)
GRACIERIOS, AND LEONEL)
RUIZ, Individually and on)
behalf of all others)
similarly situated,)

Plaintiffs,)

vs.)

SWIFT BEEF COMPANY, INC.)
D/B/A SWIFT COMPANY,)
SWIFT & COMPANY, HICKS,)
MUSE, TATE & FURST, INC.,)
HM CAPITAL PARTNERS OF)
DALLAS, LLC, and JOHN)
DOES I-V,)

Defendants.)

CIVIL ACTION NO.
3:06-cv-02322-N

ECF

ORAL DEPOSITION OF
MARGIE SALAZAR
AUGUST 7, 2008

2

ORAL DEPOSITION OF MARGIE SALAZAR, produced as a witness at the instance of the Defendants and duly sworn, was taken in the above-styled and numbered cause on the 7th day of August, 2008, from 8:56 a.m. to 10:14 a.m., before Angie Weaver, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Mullin, Hoard & Brown, L.L.P., 500 S. Taylor, Suite 800, in the City of Amarillo, County of Potter, State of Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

4

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EXHIBITS

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13	Attorney Employment Contract	10

OBJECTIONS

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5

(Deposition Exhibit No. 12 marked for identification.)

MARGIE SALAZAR,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. EBERLE:

Q. Good morning.

A. Good morning.

Q. Can you please state your full name and spell your last name.

A. Margie Salazar, S-A-L-A-Z-A-R.

Q. And before your deposition, I spoke with Ms. Cano about having a Spanish interpreter for your deposition, and she said that that wouldn't be necessary. Are you okay with going forward without an interpreter today?

A. Yes.

Q. And I understand that you previously had your deposition taken in another lawsuit that you filed against Swift; is that right?

A. Yes.

Q. What I'd like to do is just go over some of the procedures, because we'll follow the same ones as you had in that other deposition. One thing that's important is that all of your answers will need to be in a verbal form,

6

8

1 either a yes or a no or some other response, so that the
2 reporter can take down what you actually say. Is that
3 okay?

4 A. Yes.

5 Q. And whenever I ask a question, I'm going to
6 assume that you understand it, so if you don't for any
7 reason, just let me know and I can go ahead and reask it
8 or rephrase it. Is that okay?

9 A. Yes.

10 Q. Do you understand that you're sworn under oath
11 today?

12 A. Yes.

13 Q. And even though this is an informal setting, do
14 you understand that it's just the same as if you're
15 testifying in a court of law?

16 A. Yes.

17 Q. And we can take a break any time we want. Like
18 I said, this is an informal setting, so just let me know.

19 What I'd like to do first is show you
20 what's been parked previously as Exhibit 8, and these are
21 the discovery requests that were served by Swift in this
22 case. And what I'd like to do is just go back to
23 Exhibit 1 to Deposition Exhibit 8, and this is the
24 Plaintiffs' First Amended Petition in the earlier lawsuit
25 that you filed against Swift; is that correct?

7

1 A. Yes.

2 Q. Okay. And I see that you are named as one of
3 the plaintiffs in this case; is that right?

4 A. Yes.

5 Q. And if I can, let's go back to paragraph 14 on
6 what's been numbered page 1 -- I'm not sure why it says
7 page 1, but that's what it is here -- of Exhibit 1 to
8 Deposition Exhibit 8. And I'd like to review the
9 information that is indicated there about your work for
10 Swift.

11 Now, is it correct that the last day that
12 you received wages from Swift was October 14, 2002?

13 A. Yes.

14 Q. Okay. And after you left working at Swift's
15 Cactus plant, did you ever return to work there?

16 A. After --

17 Q. October 14, 2002.

18 A. No, I haven't returned.

19 Q. And do you understand when I'm referring to the
20 Cactus plant today that I'll be talking about the beef
21 processing plant that Swift operates in the Cactus and
22 Dumas area of Texas?

23 A. Yes.

24 Q. The information in Exhibit 1 to Deposition
25 Exhibit 8 indicates that you were first hired to work at

Swift's Cactus plant on June 29, 1989. Does that sound
right?

A. Yes.

Q. And then it also indicates that you were injured
on the job on October 12, 2000; is that right?

A. Yes.

Q. Were there any restrictions that a doctor
ordered for you after that injury in October of 2000?

A. It's already been a while and I really don't
remember.

Q. Okay. Did your job that you were doing at Swift
change after you were injured?

A. Yes.

Q. And what were you doing after the injury, what
kind of work?

A. When I went back, it was just different things.
I don't really remember. It's been so long, you know.

Q. Do you remember whether there were any
restrictions on what weight you could lift after you were
injured?

A. I don't remember.

Q. When you applied to work for Swift, were you a
United States citizen?

A. I am.

Q. Were you born in the United States?

9

A. Yes.

Q. And after you started working for Swift in 1989,
did you join the union?

A. Yes, I'm a member -- I was a member -- a union
member.

Q. And did you stay a union member during the whole
time that you worked for Swift --

A. Yes.

Q. -- from 1989 to 2002?

A. Yes.

Q. Did you review any documents to prepare for your
deposition this morning?

A. Just what I had said, just --

MS. CANO: Don't talk about the things that
we discussed. His question is whether you looked at any
documents.

A. No.

Q. And besides talking with Ms. Cano, your attorney
here today, did you talk with anyone else to prepare for
your deposition today?

A. No.

Q. Besides Ms. Cano, are there any other attorneys
that are representing you or the proposed class in this
case?

A. Well, Mrs. Cano and the attorneys that are with

<p>10</p> <p>1 her.</p> <p>2 Q. Do you know -- can you tell me any of their</p> <p>3 specific names, as best you can recall this morning.</p> <p>4 A. Angel, Angel Reyes. I really don't know them</p> <p>5 all. I just know that there's quite a few of them that</p> <p>6 are in -- I don't know. I just know that there's a law</p> <p>7 firm.</p> <p>8 (Deposition Exhibit No. 13 marked for</p> <p>9 identification.)</p> <p>10 Q. Let me hand you what's been marked as</p> <p>11 Exhibit 13. And if you could look at the second page.</p> <p>12 A. Okay.</p> <p>13 Q. Does your signature appear kind of in the middle</p> <p>14 on the left side there?</p> <p>15 A. This is my signature.</p> <p>16 Q. That is your signature?</p> <p>17 A. Uh-huh.</p> <p>18 Q. You have to say yes or no.</p> <p>19 A. Yes. I'm sorry.</p> <p>20 Q. And it appears that you signed Exhibit 13 on</p> <p>21 January 8, 2007. Does that appear to be correct?</p> <p>22 A. Yes.</p> <p>23 Q. And you'll see that just to the right of your</p> <p>24 signature, there is the law firm name of the Heygood Orr</p> <p>25 firm. Do you see that?</p>	<p>12</p> <p>MS. CANO: You mean specific conversations,</p> <p>or what do you mean?</p> <p>MR. EBERLE: Correct.</p> <p>MS. CANO: Not the conversations</p> <p>themselves. Whether or not you had conversations.</p> <p>A. Yes, we did, just introducing themselves and --</p> <p>Q. Before signing Exhibit 13, did you contact any</p> <p>other attorneys about representing you and the proposed</p> <p>class in this case?</p> <p>A. No.</p> <p>Q. Have you ever checked any references for any of</p> <p>the attorneys at the Heygood law firm?</p> <p>A. No, I haven't.</p> <p>Q. And do you know what experience the attorneys at</p> <p>the Heygood law firm have in class actions?</p> <p>A. No.</p> <p>Q. Do you know what types of legal work the</p> <p>attorneys at the Heygood law firm do?</p> <p>A. No.</p> <p>Q. Are you aware of any of the costs of this class</p> <p>action, costs or expenses that might be incurred in this</p> <p>class action?</p> <p>MS. CANO: Objection, calls for</p> <p>speculation. Did you hear me? Am I speaking --</p> <p>A. I'm sorry. I didn't hear you.</p>
<p>11</p> <p>1 A. Yes.</p> <p>2 Q. And is that the law firm that you understand is</p> <p>3 representing you in this case?</p> <p>4 A. Yes.</p> <p>5 Q. Do you remember where you were when you signed</p> <p>6 Exhibit 13? At home or at the lawyers' office or anything</p> <p>7 like that?</p> <p>8 A. I don't recall.</p> <p>9 Q. How did you hear about the Heygood law firm, as</p> <p>10 best you can recall?</p> <p>11 A. Well, the -- well, by Domingo Garcia.</p> <p>12 Q. And who is he is?</p> <p>13 A. He was the attorney for our last lawsuit.</p> <p>14 Q. That was the other lawsuit that we looked at</p> <p>15 before?</p> <p>16 A. Yes.</p> <p>17 Q. And I should specify. That was the other</p> <p>18 lawsuit against Swift that we looked at before?</p> <p>19 A. Yes.</p> <p>20 Q. Before you signed Exhibit 13, do you remember</p> <p>21 talking with any of the attorneys at the Heygood law firm?</p> <p>22 Don't tell me what was said. I just want to know if you</p> <p>23 remember talking with anyone.</p> <p>24 A. I'm sure they introduced themselves.</p> <p>25 Q. But you don't remember any specifics?</p>	<p>13</p> <p>MS. CANO: That's all right. You go ahead,</p> <p>and if you can answer it, do so.</p> <p>Q. If you can answer -- my question is: Are you</p> <p>aware of any of the costs or expenses that might be</p> <p>incurred in this class action?</p> <p>MS. CANO: Same objection.</p> <p>A. I'm sure there's costs, but I don't know.</p> <p>Q. Do you understand if you have any responsibility</p> <p>for paying any of those costs?</p> <p>A. I'm sure there is, but only if it goes ahead</p> <p>with it, if it's brought to -- if it goes ahead and we win</p> <p>the -- or just -- if it goes ahead and -- if we get</p> <p>anything out of it, I'm sure we're going to have to pay.</p> <p>Q. Do you know whether your attorneys have hired</p> <p>any expert witnesses in this case?</p> <p>A. I don't know.</p> <p>Q. And do you know how much your attorneys might</p> <p>have paid to any expert witnesses in this case?</p> <p>A. No.</p> <p>Q. Do you know what it might cost to provide notice</p> <p>to members of the class of this class action?</p> <p>A. No.</p> <p>Q. Can you tell me what your general understanding</p> <p>is of the claims that are being asserted in this case.</p> <p>A. I didn't understand you very good.</p>

<p>14</p> <p>1 Q. Okay. What I was interested in is what -- what</p> <p>2 claims are you making on behalf of yourself and the class</p> <p>3 against Swift in this case? What do you think they did</p> <p>4 wrong, in other words?</p> <p>5 A. They're hiring illegals and we're getting paid</p> <p>6 under -- under wage. We were getting paid under wages.</p> <p>7 Q. So the wages that you were paid were lower</p> <p>8 because Swift had hired -- or because illegal aliens were</p> <p>9 working for Swift?</p> <p>10 A. Yes.</p> <p>11 Q. Anything else more specific than that, or is</p> <p>12 that just the general allegations?</p> <p>13 A. That's just the general.</p> <p>14 Q. Do you know whether a class certification motion</p> <p>15 has been filed in this case?</p> <p>16 A. You have to -- you have to -- you have to break</p> <p>17 it down a little bit because --</p> <p>18 Q. Okay.</p> <p>19 A. -- I don't understand very good.</p> <p>20 Q. That's exactly what you should do when you don't</p> <p>21 understand, just let me know.</p> <p>22 Do you know whether a motion has been filed</p> <p>23 with the Court asking that a class be certified?</p> <p>24 A. A motion -- like what do you mean?</p> <p>25 Q. A request to the judge to what's called certify</p>	<p>16</p> <p>same right like us.</p> <p>Q. Do you understand that you have been proposed to</p> <p>be a representative of all the class members in this case?</p> <p>A. Yes.</p> <p>Q. And as a class representative, what do you</p> <p>understand your responsibilities are, if any, to the other</p> <p>class members?</p> <p>A. Fairness. Fair about it.</p> <p>Q. And what do you mean by that?</p> <p>A. Like knowing what I know -- say what I know</p> <p>and -- so it could all be brought up, you know. That's</p> <p>about it.</p> <p>Q. Anything else you can think of?</p> <p>A. Our rights, rights that we have as being a</p> <p>U.S.A. citizen.</p> <p>Q. Okay. What do you mean by that?</p> <p>A. Well, we have rights that -- we're legally here,</p> <p>you know, and they employed illegals. Well, they -- like</p> <p>they let us go and kept illegals there in our place.</p> <p>Q. Let me show you what was previously marked as</p> <p>Deposition Exhibit 2, and this is the Original Complaint</p> <p>that was filed in this case on December 15, 2006. And my</p> <p>question is: Do you remember having seen a copy of</p> <p>Exhibit 2 before today?</p> <p>A. Yes.</p>
<p>15</p> <p>1 a class, do you know whether that's happened in this case?</p> <p>2 A. I just know that it's being -- I don't</p> <p>3 understand.</p> <p>4 Q. Okay.</p> <p>5 A. You have to -- like motion, I don't know what</p> <p>6 you mean by --</p> <p>7 Q. Okay. Let me ask you a different question,</p> <p>8 which is, do you know what people are included or proposed</p> <p>9 to be included in the claims against Swift as members of</p> <p>10 the class?</p> <p>11 A. Yes, me and -- me and the others right here, the</p> <p>12 first, right here.</p> <p>13 Q. Okay. And so you're pointing at the caption on</p> <p>14 the first page of Exhibit 8, which lists the -- you and I</p> <p>15 think there's seventeen other named plaintiffs.</p> <p>16 A. Uh-huh.</p> <p>17 Q. Do you believe there's anyone else who's</p> <p>18 asserting claims against Swift in this case?</p> <p>19 A. Well, I believe that all of us that are --</p> <p>20 worked at -- that worked at -- that works at Swift and</p> <p>21 that worked at Swift that are legally -- have documents to</p> <p>22 work legally.</p> <p>23 Q. And all those people are asserting claims</p> <p>24 against Swift? Is that your understanding?</p> <p>25 A. Well, I think that everybody should have the</p>	<p>17</p> <p>Q. Do you remember when you first saw a copy of</p> <p>Exhibit 2?</p> <p>A. No, I don't remember. It's already been a</p> <p>while.</p> <p>Q. One of the defendants that's listed on the first</p> <p>page of Exhibit 2 is Hicks, Muse, Tate & Furst. Do you</p> <p>see that?</p> <p>A. Yes.</p> <p>Q. Do you know what that company is?</p> <p>A. No. No, I don't.</p> <p>Q. Do you know what claims were being asserted</p> <p>against Hicks Muse in this case?</p> <p>A. No.</p> <p>Q. Do you know whether Hicks Muse has been</p> <p>dismissed as a defendant?</p> <p>A. No.</p> <p>Q. Let me hand you what's been marked previously as</p> <p>Deposition Exhibit 3, which is the First Amended Complaint</p> <p>in this case that was filed on December 28, 2006. And my</p> <p>question again is whether you recall having seen Exhibit 3</p> <p>before today.</p> <p>A. I don't remember.</p> <p>Q. Do you know -- before today, did you try to</p> <p>determine what the differences are between Exhibit 3,</p> <p>which is the First Amended Complaint, and Exhibit 2, which</p>

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20

1 is the Original Complaint?

2 A. Nothing. There's nothing --

3 Q. Well, let me just back up. My question
4 specifically is: Before today, did you make any effort to
5 determine what the differences are between Exhibit 3 and
6 Exhibit 2?

7 A. No.

8 Q. And on the first page of Exhibit 3, there's a
9 defendant listed as HM Capital Partners of Dallas. Do you
10 see that?

11 A. Uh-huh. Yes.

12 Q. Do you know what company that is?

13 A. No.

14 Q. Do you know what claims were being asserted
15 against HM Capital Partners in this case?

16 A. No.

17 Q. Do you know whether HM Capital Partners has been
18 dismissed as a defendant?

19 A. No, I don't know.

20 Q. Let me hand you what's been previously marked as
21 Exhibit 4, which is Plaintiffs' Second Amended Complaint
22 that was filed on March 14, 2008. And my question is
23 whether you recall having seen Exhibit 4 before today.

24 A. No.

25 Q. And before today, have you tried to determine

A. Yes.

Q. And do you believe that the Salazar referred
there -- to there is you?

A. Yes.

Q. And can you explain to me what you know about
vans or buses full of Guatemalans that would arrive. And
I assume -- first of all, let me ask you, was that at the
Cactus plant?

A. Yes.

Q. Can you give me a little more details about what
happened with respect to these vans or buses.

A. Well, they would just come in with people from
down south, from El Paso. They would come down with
people from -- they were Guatemalans. Most of them were
Guatemalans.

Q. Okay. Let me -- why don't we back up for a
second to page 8 of Exhibit 11. And near the top, the
second sentence, let me just read it. It says, quote,
large numbers of Guatemalans had begun arriving at the
Cactus plant sometime in 2000, after a Swift plant in
Kansas burned down, and most of the new arrivals were
short and squat, with Mayan features and little mastery of
English or Spanish, end of quote. Did I read that
correctly?

A. Yes.

19

21

1 what changes were made, if any, between Exhibit 4, which
2 is the Plaintiffs' Second Amended Complaint, and
3 Exhibit 3, which is the First Amended Complaint?

4 A. No.

5 Q. Let me hand you what was previously marked as
6 Deposition Exhibit 11. And this is an article entitled
7 Ground Meat that was published on April 5, 2007; is that
8 right?

9 A. Yes.

10 Q. And do you recall speaking with a reporter with
11 respect to some of the information that appears in
12 Exhibit 11?

13 A. Yes.

14 Q. And have you seen Exhibit 11 before?

15 A. No.

16 Q. You haven't seen the actual article itself?

17 A. No.

18 Q. Let me have you turn to page 9 of Exhibit 11, if
19 I could.

20 A. Okay.

21 Q. And the second paragraph from the bottom, let me
22 just read it. It says, quote, Serrato, Salazar and others
23 also said that vans, even buses, full of Guatemalans
24 would arrive -- sometimes arrive at the plant, end of
25 quote. Did I read that correctly?

Q. Were some of the vans or buses you're referring
to, were those coming from this Swift plant in Kansas that
had burned down?

MS. CANO: Objection, calls for
speculation.

A. I don't know.

Q. Do you recall that sometime in 2000 that large
numbers of Guatemalans began arriving at the Swift plant
in Cactus?

A. Yes.

Q. And what can you tell me about that?

A. Well, that we just had a lot of little ones --
we used to call them little ones -- working -- coming
down. There were -- I mean, it was numbers of them coming
in.

Q. And this was in the 2000 and 2001 time frame, as
best you recall?

A. I don't really recall the -- I just know that
I -- yeah. Yes.

Q. And was it your -- well, first of all, did you
ever talk yourself with any of these Guatemalans that were
arriving at the Swift Cactus plant?

A. Yes, I talked to them.

Q. And what -- tell me what you recall about those
conversations.

22

24

1 A. I recall asking them their age. Some of them
2 replied they were thirteen, fourteen. And I asked them
3 how did they get here, and they said in a van. But they
4 were never -- they wouldn't speak so much because their
5 language was different from Spanish, you know. It's
6 different.

7 Q. It was a different dialect?

8 A. Uh-huh. And their names didn't -- I would call
9 them by the name they had on their -- on their hardhat,
10 because when you were hired there, you'd have a hardhat
11 and it would have your name on there so foremans and
12 employees would identify each other, not just call them by
13 hey; they would call them by their name.

14 And we would call them by the name that was
15 on their hardhat and they wouldn't even turn to look or
16 know that we were -- they didn't even have no clue we were
17 calling them until we would just pat them and tell them,
18 you know, he's calling you or the foreman's calling you or
19 pull your meat.

20 Q. Did you have any conversations with any of these
21 Guatemalans about whether they were legally authorized to
22 work in the United States?

23 A. They didn't want to talk about that.

24 Q. So you didn't personally have any conversations
25 about that with them?

Q. Well --

A. The word that you used, the big word.

Q. I called it common knowledge. So did
everybody -- did you believe that most people in the plant
knew that these Guatemalans were not legally authorized to
work in the United States?

A. Yes. We all knew.

Q. Let me hand you what's been marked as Deposition
Exhibit 12. And these are your discovery responses in
this case that you looked at before we started this
morning; is that right?

MS. CANO: You can go ahead and look at it
again if you want.

Q. Is that correct?

A. Yes.

Q. And if I could have you turn to page 7 of
Exhibit 12.

A. Uh-huh. Okay.

Q. And your response there at about the middle of
the page says, quote, when the Kansas plant burned down,
Swift, slash, Cactus brought in a lot of Guatemalans to
work. It was heard and said that they did not have legal
documents and that they were under age, end of quote. Did
I read that correctly?

A. Yes.

23

25

1 A. Well, I -- just talking to them, telling them,
2 how did you get here, and they'd tell you they would get
3 in the van. And then how were they hired, they said --
4 they would say, over there in the office. We were hired
5 over there in the office.

6 Q. Did any of these Guatemalans tell you that they
7 weren't legally authorized to work in the United States?

8 A. Yes.

9 Q. And how many told you that, as best you can
10 recall?

11 A. I would say about fifteen -- twelve, fifteen.

12 Q. And was this, again, in approximately the 2000
13 and 2001 time frame?

14 A. Yes.

15 Q. Did you have any conversations with your
16 co-workers at the Swift Cactus plant about the Guatemalans
17 not being authorized to work in the United States?

18 A. Talk to my co-workers?

19 Q. Yes.

20 A. We would talk. Everybody would talk. All of us
21 would talk. It was like -- it was the news of the plant.

22 Q. Okay. So would you say it was common knowledge
23 within the plant that these Guatemalans were not legally
24 authorized to work in the United States?

25 A. I didn't understand what you told me.

Q. And is that what we were just talking about,
that these Guatemalans came in after the Kansas plant
burned down?

A. Yes. Some of them came down from the Cactus --
from the plant over there in Kansas.

Q. Okay. And then it sounds like they may have
been coming from other areas as well.

A. Yes, uh-huh.

Q. And what was your understanding as to where else
some of the Guatemalans were coming from?

A. From El Paso, from down south, because they
would put up papers -- well, even the foremens would let
us know -- let us know that they were bringing people that
was -- that were wanting to work, that wouldn't complain
about their work, about being tired or about being --
working shorthanded.

Q. Okay. So explain to me a little bit more about
that. I guess I didn't understand. What was it -- these
were the foremen at the Swift plant in Kansas?

A. The foremens.

Q. I mean, there were more -- the foremen at the
Swift plant in Cactus, and what were they telling you?

A. They would tell us -- a lot of us, you know --
we were just like -- even general foremen would tell us
that they were going to bring people that worked hard,

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1 that they didn't complain about being tired or getting --
2 something hurting them, you know, their arms or --
3 working, you know -- of the work that they did, they
4 wouldn't complain of it.

5 Q. And was it your understanding the foremen were
6 referring to these Guatemalan workers?

7 A. Yes.

8 Q. And again, was this in the time frame around
9 2000 and 2001?

10 A. Yes.

11 Q. And in your response here on page 7 of
12 Exhibit 12, you indicate that it was heard and said that
13 the Guatemalans did not have legal documents. And I
14 wanted to get a better indication of who it was that heard
15 and said that. Can you identify any specific employees at
16 Swift?

17 A. That said that they didn't -- I didn't
18 understand you. Could you repeat that again.

19 Q. Yes. What I'm trying to get is more specifics
20 about who it was that was saying that the Guatemalans who
21 arrived as new workers at the Swift Cactus plant were not
22 legally authorized to work in the United States or didn't
23 have so-called legal documents.

24 A. Just by their name. They didn't even know their
25 name. They couldn't even sign their checks.

A. Yes.

Q. And who, again, was it, if you can recall
anybody specific, that was talking about the Mexicans who
were not legally authorized to work in the United States,
or was this, again, another thing that was -- everyone was
talking about?

A. It was just -- it was just people talking,
employees talking.

Q. In the preceding paragraph at the bottom of page
5 of Exhibit 12, you'd indicated that at one point, you
were working, giving out gloves and uniforms to employees;
is that correct?

A. Yes.

Q. Was that after you were injured in October of
2000, or were you doing that before that time as well?

A. No, it was after.

Q. So that was one of the jobs you had after the
injury in October of 2000?

A. Yes.

Q. If you'll go to the top of page 6 of Exhibit 12.
You identify the names of three foremen, Raul Cortez, Leo
Gutierrez and Joe Gutierrez. Were those foremen that you
worked under?

A. They were -- they were foremens from the floor,
yeah.

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1 Q. What I'm asking actually is what -- of your
2 other co-workers, can you identify anybody in particular
3 who was saying that they were not legally authorized to
4 work?

5 MS. CANO: Do you understand the question?

6 THE WITNESS: Yes, I do.

7 MS. CANO: Okay.

8 Q. Or was it just that everybody was saying it?

9 A. It was just the talk of the plant, of all the
10 employees. You know, it was --

11 Q. And this was in that 2000 and 2001 time frame?

12 A. Yes.

13 Q. Let me have you go back to page 5 of Exhibit 12,
14 if I could. And what I'd like to do is ask you about the
15 very last line on page 5. It says, quote, overheard from
16 other employees that illegals were employed by Swift, end
17 of quote. Did I read that correctly?

18 A. Yes.

19 Q. And what I'm interested in -- we've talked about
20 these Guatemalans. Were there other employees of other
21 nationalities that you also had heard were not legally
22 authorized to work in the United States?

23 A. Mexicans from Mexico.

24 Q. And when did you hear about that? Was that,
25 again, in the same 2000, 2001 time frame?

Q. And you had described earlier certain foremen
talking about people that would be hired by Swift at the
Cactus plant that would be willing to do work even if it
was difficult and those sorts of things, correct?

A. Yes.

Q. Are these three of the foremen who were saying
those things?

A. Yes, Raul Cortez, Leo Gutierrez. It was even
Alex Garcia. There's just too many foremens, I mean, that
would say that.

Q. Okay. So there were more than just those three?

A. Yes. There was plenty. I mean, there was a lot
of them.

Q. In the next paragraph, the second paragraph from
the top of page 6, you indicate that you knew when what
you've called the Swift bus was going to leave to go south
to get people to work at the plant; is that right?

A. Yes. We would find out because they would tell
us. The foremens would talk about it and say, sooner or
later we're going to have people that run -- you know, run
the lines that will work without complaining about
nothing.

Q. Okay. And when you refer to going to the south,
was that the El Paso and other areas south of Cactus?

A. Yes. El Paso down to Brownsville, down there,

30

1 down south, south of Texas -- South Texas.

2 Q. And I think I asked you this before, but this
3 information about the Swift bus going down to the south to
4 get workers, this was occurring in the 2000 and 2001 time
5 frame?

6 A. Yes. Yes.

7 Q. If you'll go down to the fourth paragraph on
8 page 6 of Exhibit 12. You have a reference there to after
9 your employment at Swift, you knew a person who said he
10 was from Guatemala and was an illegal working at the Swift
11 Cactus plant; is that right?

12 A. Yes.

13 Q. And I think we talked about that you left
14 working at Swift's Cactus plant in October of 2002.

15 A. Yes.

16 Q. And so this occurred sometime after that?

17 A. Yes.

18 Q. Can you remember approximately how long after
19 you left?

20 A. It was before the raid.

21 Q. So before December of 2006?

22 A. Uh-huh. It was about -- maybe about a year
23 before.

24 Q. And where were you when you were talking to this
25 person from Guatemala?

31

1 A. Where was I?

2 Q. Yeah, as best you can recall.

3 A. I -- just at the flea market.

4 Q. One question I forgot to ask is whether you've
5 been back to the Swift plant in Cactus since you stopped
6 working there.

7 A. No, I haven't.

8 Q. And I think I may have already asked you this,
9 but you haven't worked at all for Swift since October 14
10 of 2002?

11 A. No.

12 Q. Did you ever work for Swift at any of its other
13 plants besides Cactus?

14 A. No.

15 Q. Do you have any information about whether Swift
16 employed illegal immigrants at any of the other Swift
17 plants?

18 A. No, I don't know nothing about that. I just
19 know the one about Cactus, that's it, because that's where
20 I live, in Dumas. So I don't know nothing about anything
21 else.

22 Q. If we go down a couple more paragraphs, in the
23 middle of page 6 of Exhibit 12, you indicate that you knew
24 a woman who has worked at Swift under many different names
25 and at different times. My first question is: Do you

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believe that woman still works at Swift?

A. Yes.

Q. At the Cactus plant?

A. Yes.

Q. And when do you recall first hearing that this
woman was an illegal?

A. I know -- I know her.

Q. Okay. In what time frame, though, did you first
meet this person, as best you can recall?

A. About eight years.

Q. So back to around 2000 or so?

A. Yes.

Q. And over the last eight years, is it your
understanding that she's used different names to work at
Swift?

A. Yes.

Q. Do you know how many different names she's used?

A. No.

Q. Do you know what name she's currently using?

A. No.

Q. While you were working for Swift at the Cactus
plant, did you believe that your hourly pay was lower
because illegal immigrants worked for Swift at the Cactus
plant?

A. Well, the union tried to get us -- get our -- we

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would talk to the union. We were in the union, so they
would have to help us with our wages to go up. They
don't -- it was like we weren't even getting nothing.

Q. So did you believe that your hourly pay was,
then, in fact lower because illegal immigrants were
working for Swift at the Cactus plant?

A. Yes.

Q. And this was in that 2000 and 2001 time frame
that you thought your wages were lower than they should
have been because illegal immigrants were working at
Swift's Cactus plant?

A. Yes.

Q. Did you hear anyone else working at the Swift
Cactus plant say that they felt that their wages were
lower because illegal immigrants were working at the
plant?

A. Could you repeat that again.

Q. Yeah. I was just wondering -- you've said that
you felt that your wages were lower because there were
illegal immigrants working at the plant. I was just
wondering whether you had discussions with other
co-workers about that issue.

A. Yes, we did.

Q. And this was in the 2000, 2001 time frame?

A. Yes.

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Q. And what do you recall being said?

A. Well, our wages were not getting any -- we would just talk about our wages, that we weren't making enough and that the union wasn't helping us get a raise, that every time it was going to renew, the union -- that we were wondering why we wouldn't get any raises.

Q. And do you remember you or anyone else complaining to the union that the wages were lower because there were illegal immigrants working at Swift in this 2000 and 2001 time frame?

A. I don't know. We just -- I don't remember.

Q. After you left the Cactus plant in October of 2002, did you hear any information about Swift hiring additional illegal immigrants?

A. After the what? I'm sorry.

Q. After you left working. So let's -- I'm going to talk now about after October of 2002, so you're no longer working at the plant.

A. Okay.

Q. Did you hear any information that Swift was hiring more illegal immigrants after that time?

A. Yes, they had a lot of -- it was -- I would still hear.

Q. And what were you hearing?

A. That they had a lot of little ones. The plant

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was -- it was like -- all you would see, little ones, they would say, friends that still -- I have a lot of friends over there that still talk about it -- that would still talk about it and say, there's a lot of little ones. I mean, they're taking over because they don't complain about nothing.

Q. While you were still working at Swift, so this is now, again, before October of 2002, did you hear any information about Swift employees providing false documents directly to any illegal immigrants?

A. No.

MS. CANO: Did you understand the question?

A. No, I didn't. No. What do you mean employees?

Q. In other words, anyone that was working at Swift, were you aware that --

A. The employees or employees like me?

Q. Anyone. I mean, someone in management or anybody on the production floor or wherever. Anyone that was employed by Swift, did you hear anything about them directly giving false documents to illegal immigrants?

A. Hear? If I heard anything? It was all coming from the front office. It was all coming up from human resources.

Q. What was coming up from human resources?

A. That you would just go over there and they'll

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fix you up.

Q. Okay. So it was your understanding that employees in Swift's human resources department at Cactus were giving false documents to illegal immigrants?

A. Yes.

Q. And did you have any specific information about who in the human resources department was doing that?

A. Oscar Arriaga.

Q. And what did you hear about that?

A. That you would just talk to him and he'd get you fixed up.

Q. And who told you that?

A. It was -- a lot of people knew. A lot of us -- a lot of employees there knew.

Q. And was this in that 2000 to 2001 time frame?

A. Yes.

Q. Anyone else that you can identify specifically in the human resources department at the Cactus plant who you understood were -- was providing false documents to illegal immigrants?

A. I just knew that it was in personnel, that you just had to talk to someone in personnel and they'd lead you to that person, or they'd talk to them and then you'll get called or sent to him.

Q. But at this point, the only name you can

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identify is Mr. Arriaga?

A. Oscar Arriaga.

MR. EBERLE: Why don't we take a short break and we'll see if I can wrap things up.

(Recess from 9:49 a.m. to 9:54 a.m.)

Q. (BY MR. EBERLE) You mentioned information that you had received about employees in the Swift human resources department providing false documents to illegal immigrants. Were you aware of any information at any time that other people outside of Swift, perhaps in Dumas or Cactus or Amarillo or anywhere else, were providing false documents to illegal immigrants that ended up working at the Cactus plant?

MS. CANO: If you don't understand his question, tell him to break it down.

A. Yes, like -- all I know is that I just heard people say that you could get papers like candy.

Q. And can you identify any specific names of people who said that?

A. No.

Q. And were you hearing this in that 2000 to 2001 time frame?

A. Uh-huh. Yes.

MR. EBERLE: I have no further questions, so I'll pass the witness.

<p>1 EXAMINATION</p> <p>2 BY MS. CANO:</p> <p>3 Q. Tell us whether or not you ever asked anyone</p> <p>4 that you thought of as a Guatemalan while you were working</p> <p>5 at Swift their age.</p> <p>6 A. I had contact with -- with people, with --</p> <p>7 talking to them, because they would go get their scrubs or</p> <p>8 their frock from where I was at, because I worked in the</p> <p>9 laundry room, and it was just like -- I would ask them how</p> <p>10 old they were, and one of them told me he was thirteen.</p> <p>11 And I told him -- he looked so young, so I asked him how</p> <p>12 old he was and I go, you're young enough to be my son. I</p> <p>13 go, how did you get hired here, being thirteen? And he</p> <p>14 said, someone in the office hired me. And --</p> <p>15 Q. Did you ever ask how they obtained the documents</p> <p>16 with which they were working at Swift while you were an</p> <p>17 employee there? Do you understand my question?</p> <p>18 A. How they got --</p> <p>19 Q. Right. Did you ever ask -- tell me whether or</p> <p>20 not you ever asked any of them, how did you get the papers</p> <p>21 or the documents to be able to work here? In other words,</p> <p>22 did someone -- who gave them to you or where did you get</p> <p>23 them?</p> <p>24 A. They said that -- I had some -- I had some young</p> <p>25 boys, some people from Guatemala that said that they paid</p>	<p>38</p> <p>40</p> <p>brought you here to work?</p> <p>A. I asked them that.</p> <p>Q. And what did they answer? Or what did -- what</p> <p>did the person answer about that?</p> <p>A. They would answer that they were brought in a</p> <p>van -- they were brought in the van, but before then, that</p> <p>they were in -- they were just waiting for the van to get</p> <p>them, to come up.</p> <p>Q. Anything other than that that you remember at</p> <p>this point about where they were picked up by the van --</p> <p>A. Where --</p> <p>Q. -- that brought them to work?</p> <p>A. They were brought from down south, from -- they</p> <p>were transported in a train.</p> <p>Q. They were transported in a train to --</p> <p>A. Yes.</p> <p>Q. -- where?</p> <p>A. To -- they wouldn't really say where they were</p> <p>because they said they couldn't see because they were in</p> <p>those boxcars.</p> <p>Q. All right. Tell us whether or not these people</p> <p>that you were referring to as the Guatemalan employees,</p> <p>whether or not they ever admitted to you that they were,</p> <p>in fact, from Guatemala.</p> <p>A. I don't understand you. Like --</p>
<p>39</p> <p>1 for those documents, that they would pay the person --</p> <p>2 that they were being deducted some money from their check</p> <p>3 that they had to pay for.</p> <p>4 Q. What check was being deducted from?</p> <p>5 A. From their -- they had to go up to the front and</p> <p>6 go pay -- go pay. They said that they were being charged</p> <p>7 about \$1,000.</p> <p>8 Q. By whom?</p> <p>9 A. They just said it was somebody up in the office</p> <p>10 that -- in personnel.</p> <p>11 Q. And when you talk about the office in personnel,</p> <p>12 who are you referring to?</p> <p>13 A. To Oscar Arriaga.</p> <p>14 Q. And the company being which one?</p> <p>15 A. Swift.</p> <p>16 Q. Okay. And this was something that you</p> <p>17 personally discussed with some of these employees that</p> <p>18 were Guatemalan?</p> <p>19 A. Yes. And it was not just one person. They</p> <p>20 would bundle up, I guess, because they were the same</p> <p>21 nationality, and I would talk to them, you know. It was</p> <p>22 just like -- they were young boys, young girls, and I</p> <p>23 would tell them, why do you work here? It's so hard. And</p> <p>24 he goes, we were brought here to work.</p> <p>25 Q. Tell us whether or not you ever asked them, who</p>	<p>41</p> <p>Q. Oh, I'm sorry. Let me go back. You know, we</p> <p>were talking about the Guatemalans --</p> <p>A. The Guatemalans.</p> <p>Q. -- who were young and the others who were</p> <p>telling you -- that we've been discussing here. All</p> <p>right. Did they ever say to you, yes -- did they ever say</p> <p>to you, yeah, I am from Guatemala, that they said, yeah --</p> <p>A. Yes.</p> <p>Q. -- that's where I'm from?</p> <p>A. Yes, they would say they were from Guatemala and</p> <p>they were here just to work.</p> <p>Q. Earlier we were talking about how they obtained</p> <p>documents to work at Swift, and you told us that it was</p> <p>the Swift personnel office, correct?</p> <p>A. Yes.</p> <p>Q. All right. Those statements were also from</p> <p>these people who had identified -- or these employees who</p> <p>identified themselves as from Guatemala that you've been</p> <p>discussing here? I'm sorry. Who had said that they were</p> <p>from Guatemala that we've been talking about. Do you</p> <p>understand me? I might have made it --</p> <p>A. No.</p> <p>Q. -- too complicated. Let me go back.</p> <p>A. We were talking -- we're only talking about</p> <p>Guatemalans?</p>

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1 Q. Yes. Okay. I'm just making it too long. Let
2 me go back and ask you the question.

3 A. Okay.

4 Q. Earlier you told me about -- that documents --
5 that you could get false papers from Swift personnel; is
6 that true?

7 A. Yes.

8 Q. Okay. Tell us whether or not it was the
9 Guatemalans that said that to you.

10 A. Yes, they're the ones that -- I would ask them
11 how would they get there to work, and they would say, in
12 the office --

13 Q. Did --

14 A. -- the Swift office, you know, that you would
15 get them there.

16 Q. Did anyone --

17 A. I would ask them if they were -- if they had
18 legal papers to work, and they said, no, mi nombre. They
19 would tell us their name.

20 Q. And point at --

21 A. Uh-huh.

22 Q. -- what? What did they point at?

23 A. At their hardhat and say -- they'd say, no es mi
24 nombre.

25 Q. Which means what in English?

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1 A. That's not my name. My name is Jose or my name
2 is Leo, different -- different names. But the name that
3 was on their hardhat was not theirs.

4 Q. Besides saying -- did they ever mention by name
5 anyone in the personnel office at Swift that they had
6 gotten the false papers from?

7 A. By name? No, they just said in the office, that
8 they would get them in the office.

9 Q. Did you ever ask them, did Oscar Arriaga give --
10 help you get these documents?

11 A. No, they wouldn't say that. They wouldn't say
12 nothing. They would just stay quiet about it.

13 Q. So you did ask them whether it was Oscar
14 Arriaga?

15 A. Yes, I did ask them.

16 Q. But they would --

17 A. They didn't want to say nothing. They never
18 wanted to say nothing about it. They'd just say that in
19 the oficina and that they were being charged, that they
20 had to pay; after their paycheck that they would have to
21 pay for it.

22 Q. For it being what? The false documents?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes. They had to pay for their documents.

Q. Were these -- were these things that you were
told about paying for documents made by more than one
person to you?

A. Yes.

Q. Can you give us an idea of approximately how
many you personally talked to that said that -- said this
to you.

A. About -- I would say about ten people that I
talked to.

Q. Okay. Other than saying that their names were
Jose and Leo, is the other name you --

A. Uh-huh.

Q. Can you tell us the name of any of these people,
whether it was the name that was on their hardhat or the
name that they gave to you as being their real name?

A. Their name on their hardhat would be like
William. On women, it would be Wilma. Tony. There was
just so many of them. Just coming to it right now, I --
but every time that we would call them from their name
that they had on their hardhat, they wouldn't respond to
it until we would tap them and tell them, hey, you know,
I'm talking to you or they're calling you over there.

Q. And the name that was on the hardhat, that was
only a first name?

A. Yes, only a first name.

Q. Not a last name?

A. No, not a last name.

Q. All right. Besides the names on the hardhats
that you've just told me about, do you remember any names,
other than the ones you've already said, Jose and Leo,
that they said were their real names?

A. Adela was one of the girls -- well, was some of
the girls. Adela and Ariana. Because I would talk to
them real good, those two girls. I would just -- it just
came to where, I guess, they would find that communication
with you, you know. That's --

Q. They were friendlier with you?

A. Yes, uh-huh.

Q. Were they also young?

A. They were real young. I would ask them how old
they were because one of them was even pregnant, and I
asked her, how old are you? She said, I'm thirteen. And
I would tell her if she was already seeing a doctor and
she would say no.

Q. Pass -- oh, I'm sorry. Did --

A. That's all.

MS. CANO: Pass the witness.

FURTHER EXAMINATION

BY MR. EBERLE:

Q. In the questions that you were just responding

<p>46</p> <p>1 to from Ms. Cano about your conversations with these</p> <p>2 Guatemalans, did all those conversations take place in the</p> <p>3 2000 to 2001 time frame?</p> <p>4 A. Yes, they did.</p> <p>5 Q. And during earlier questioning that I had of</p> <p>6 you, you mentioned Mr. Arriaga's name as a person in the</p> <p>7 Cactus personnel department who would provide false</p> <p>8 documents to illegal immigrants; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. I guess I'm not clear now on what the source of</p> <p>11 that information was that you had, because you've</p> <p>12 testified just now that the Guatemalans that you talked to</p> <p>13 wouldn't identify anybody specifically in the personnel</p> <p>14 department who was helping them out. So what's your</p> <p>15 source or who told you that Mr. Arriaga was providing</p> <p>16 false documents to illegal immigrants?</p> <p>17 A. Who told me?</p> <p>18 Q. Yes.</p> <p>19 A. The Guatemalans.</p> <p>20 Q. Okay. But in response to the questions that you</p> <p>21 were just asked, you said that they wouldn't -- they</p> <p>22 didn't want to say who it was. So now you're saying that</p> <p>23 they did tell you it was Mr. Arriaga?</p> <p>24 A. Well, they would say that it was a person in</p> <p>25 personnel.</p>	<p>48</p> <p>A. It was the talk. It was the talk about --</p> <p>people would talk about it.</p> <p>Q. And was this in the 2000 to 2001 time frame?</p> <p>A. Yes.</p> <p>Q. Anybody specifically that you can identify who</p> <p>would say that they believed Mr. Arriaga was providing</p> <p>false documents to illegal immigrants?</p> <p>MS. CANO: Do you know what he means by</p> <p>identify?</p> <p>THE WITNESS: No.</p> <p>MS. CANO: Make sure that you always ask</p> <p>him or me if you don't understand a specific word.</p> <p>THE WITNESS: Okay.</p> <p>Q. Well, let me reask it, then. Can you tell me by</p> <p>name anyone who told you that they thought Mr. Arriaga was</p> <p>providing false documents to illegal immigrants?</p> <p>A. It was the Guatemalans. They would just be the</p> <p>ones that would say that -- like I told you, they would</p> <p>say it was somebody in the office and they would point out</p> <p>to him. One of them did. His name was Herman, this</p> <p>little Guatemalan, Herman.</p> <p>Q. Okay. And this was in the 2000 to 2001 time</p> <p>frame?</p> <p>A. Yes.</p> <p>Q. And did he specifically point out, that man,</p>
<p>47</p> <p>1 Q. Okay.</p> <p>2 A. And the only person that works right there in</p> <p>3 personnel, in that office that they would take me to is</p> <p>4 Oscar.</p> <p>5 Q. Okay. But they, that is, the Guatemalans, never</p> <p>6 told you that it was Mr. Arriaga that was providing false</p> <p>7 documents to them?</p> <p>8 A. No, they didn't say that -- they didn't mention</p> <p>9 his name. They just said that it was somebody in</p> <p>10 personnel. And that girl that was pregnant, that</p> <p>11 thirteen-year-old girl, I told her to take me to who was</p> <p>12 hiring them, who had hired her, and she took me to that</p> <p>13 office. And the only office that was there that she took</p> <p>14 me to was Oscar Arriaga.</p> <p>15 Q. So is it correct, then, that it's your</p> <p>16 assumption that it was Mr. Arriaga that was providing</p> <p>17 false documents to these Guatemalans?</p> <p>18 A. Well, she took me to that office, and he's the</p> <p>19 only one that was there.</p> <p>20 Q. No, I understand that. But they never said it</p> <p>21 was Mr. Arriaga that was providing false documents?</p> <p>22 A. No, they never said -- mentioned his name, like</p> <p>23 Oscar, no.</p> <p>24 Q. Did anyone else ever tell you that Mr. Arriaga</p> <p>25 was providing false documents to illegal immigrants?</p>	<p>49</p> <p>Mr. Arriaga, provided false documents to me?</p> <p>A. He didn't point out. He just said -- we were</p> <p>there talking and then he said, here comes the man that</p> <p>put me to work here, that gave me what I have, my work</p> <p>here. And I go, what do you mean? And he goes, he's the</p> <p>one that employed me here. I didn't have no papers and he</p> <p>gave me a job here.</p> <p>Q. Okay. But this person never said specifically</p> <p>that Mr. Arriaga gave me false documents?</p> <p>A. No. He just said that he was employed -- he had</p> <p>employed him there, even though he knew that he didn't</p> <p>have no documents.</p> <p>Q. And getting away completely from the</p> <p>Guatemalans. Let's forget about Guatemalans.</p> <p>A. Okay.</p> <p>Q. Can you name any person who told you that they</p> <p>believed that Mr. Arriaga was providing false documents to</p> <p>illegal immigrants?</p> <p>A. Any person?</p> <p>Q. Yes.</p> <p>A. No. It's like we would -- everybody would talk</p> <p>about it. That's all I can tell you, that a lot of</p> <p>people -- a lot of us -- there were so many employees,</p> <p>2,000 employees, and a lot of us just knew. I mean, you</p> <p>know, not knew, but we would talk about it. It was just</p>

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<p>the talk, talk about Oscar.</p> <p>Q. And this was in the 2000 to 2001 time frame?</p> <p>A. Yes.</p> <p>MR. EBERLE: I'll pass the witness.</p> <p>FURTHER EXAMINATION</p> <p>BY MS. CANO:</p> <p>Q. When the young thirteen-year-old pregnant girl that you told us about earlier took you to the office to show you where she had -- to show you the office, did that office, as far as you know, belong to just one person or to multiple people?</p> <p>A. Well, in that office, it said personnel.</p> <p>Q. All right. And to your knowledge, who was the -- who was in personnel at that office?</p> <p>A. Oscar Arriaga. His name was on that desk. It had one desk in there, one chair, so it was Oscar.</p> <p>Q. All right. Did his name appear on a plaque on his desk?</p> <p>A. Yes, uh-huh. Yes, ma'am.</p> <p>Q. And the thirteen-year-old girl that you told us was pregnant, tell me her name again, that she told you was her real name.</p> <p>A. Adela, Ariana, something like that. She was -- it was with an A. Ariana.</p> <p>Q. What was the -- why was she going to show you</p>	<p>CHANGES AND SIGNATURE</p> <table><tr><th>PAGE</th><th>LINE</th><th>CHANGE</th><th>REASON</th></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td></tr></table> <p>I, MARGIE SALAZAR, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.</p> <p>_____ MARGIE SALAZAR</p> <p>STATE OF _____) COUNTY OF _____)</p> <p>Before me, _____, on this day personally appeared MARGIE SALAZAR, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.</p> <p>Given under my hand and seal of office on this _____ day of _____, 2008.</p> <p>_____ NOTARY PUBLIC IN AND FOR THE STATE OF _____</p> <p>My Commission Expires: _____</p>	PAGE	LINE	CHANGE	REASON																				
PAGE	LINE	CHANGE	REASON																						
51	53																								
<p>that?</p> <p>A. Why did she show me? Because I asked her. I go, quien empleo? That meant, who hired you? How did you get hired? And she said, aqui.</p> <p>Q. Which means?</p> <p>A. Over here. I got hired here. And I told her, show me the -- who hired you. And she took me to that office, which is over there by the cafeteria.</p> <p>Q. Which was the personnel office --</p> <p>A. Yes, it was the personnel.</p> <p>Q. -- the one that had the desk with Oscar Arriaga's --</p> <p>A. Yes.</p> <p>Q. -- name plaque on it?</p> <p>A. Uh-huh. Yes.</p> <p>Q. Did this girl, the one who was pregnant and thirteen years old who showed you the office, ever make any -- did she ever tell you that the person in that office had provided her or helped her obtain false papers with which to work?</p> <p>MR. EBERLE: Object to the form.</p> <p>A. No. She just said that he had hired her.</p> <p>MS. CANO: Pass the witness.</p> <p>MR. EBERLE: I have no further questions.</p> <p>(End of Proceedings.)</p>	<p>IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION</p> <p>BLANCA VALENZUELA, MARGIE) SALAZAR, JOSE E. SERRATO,) JOSIE RENDON, CLARA TOVAR,) CONSUELO ESPINO, MARIA) AVILA, ERNESTINA) NAVARRETTE, MARIA E.) MUNOZ, AMANDA SALCIDO,) CANDELARIO G. ORTEGA,) MARIA ORTIZ, JOSE OLIVA,) RAFAELA CHAVEZ, ELODIA) ARROYO, SUSANA CARDIEL,) GRACIE RIOS, AND LEONEL) RUIZ, Individually and on) behalf of all others) similarly situated,)</p> <p>) CIVIL ACTION NO. Plaintiffs,) 3:06-cv-02322-N</p> <p>vs.) ECF)</p> <p>SWIFT BEEF COMPANY, INC.) D/B/A SWIFT COMPANY,) SWIFT & COMPANY, HICKS,) MUSE, TATE & FURST, INC.,) HM CAPITAL PARTNERS OF) DALLAS, LLC, and JOHN) DOES I-V,)</p> <p>) Defendants.)</p> <p>REPORTER'S CERTIFICATION ORAL DEPOSITION OF MARGIE SALAZAR AUGUST 7, 2008</p> <p>I, ANGIE WEAVER, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following: That the witness, MARGIE SALAZAR, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness and</p>																								

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BLANCA VALENZUELA, MARGIE)
SALAZAR, JOSE E. SERRATO,)
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RAFAELA CHAVEZ, ELODIA)
ARROYO, SUSANA CARDIEL,)
GRACIERIOS, AND LEONEL)
RUIZ, Individually and on)
behalf of all others)
similarly situated,)

Plaintiffs,)

vs.)

SWIFT BEEF COMPANY, INC.)
D/B/A SWIFT COMPANY,)
SWIFT & COMPANY, HICKS,)
MUSE, TATE & FURST, INC.,)
HM CAPITAL PARTNERS OF)
DALLAS, LLC, and JOHN)
DOES I-V,)

Defendants.)

CIVIL ACTION NO.
3:06-cv-02322-N

ECF

ORAL DEPOSITION OF
AMANDA MARIA SALCIDO
AUGUST 6, 2008

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ORAL DEPOSITION OF AMANDA MARIA SALCIDO, produced as a witness at the instance of the Defendants and duly sworn, was taken in the above-styled and numbered cause on the 6th day of August, 2008, from 12:04 p.m. to 1:47 p.m., before Angie Weaver, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Mullin, Hoard & Brown, L.L.P., 500 S. Taylor, Suite 800, in the City of Amarillo, County of Potter, State of Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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<p>1 AMANDA MARIA SALCIDO, 2 having been first duly sworn, testified as follows: 3 EXAMINATION 4 BY MR. EBERLE: 5 Q. Can you please state your full name and spell 6 your last name. 7 A. Okay. Amanda Maria Salcido, S-A-L-C-I-D-O. 8 Q. And my name is Brian Eberle, and I'm one of the 9 attorneys for Swift. And I just wanted to double-check. 10 Before your deposition, I had conferred with your attorney 11 about whether we should have a Spanish interpreter here 12 today, and she said that wouldn't be necessary. 13 A. No. 14 Q. And I just want to make sure that you agree that 15 we don't need to have an interpreter to proceed today. 16 A. That's fine. I don't need one. 17 Q. Okay. I understand you had your deposition 18 taken in a prior lawsuit against Swift; is that right? 19 A. Yes. 20 Q. I just want to make sure -- let you know that 21 we're going to follow the same procedures as before, so 22 basically all your answers need to be verbal in order for 23 the court reporter to write them down, so it will be 24 necessary for you to answer yes or no or with some other 25 words, if that's okay.</p>	<p>6 8 A. Okay. (Deposition Exhibit Nos. 8 and 9 marked for identification.) Q. Let me hand you what has been marked as Exhibit 8. And I'll just let you know that these are the discovery requests that you were just reviewing your answers to. And I'll also hand you what's been marked as Exhibit 9, and these are the answers you just verified. And maybe I could just have you confirm that Exhibit 9 is the answers to the interrogatories and other discovery requests that you just signed. I think the last page is the verification. A. Yes. Q. What I'd like to do is go back and forth between Exhibits 8 and 9 for a second, and if I could have you first take a look at Exhibit 1 to Exhibit 8, the large document. It's about eight pages back from the beginning. Right there. Do you see that this is the Plaintiffs' First Amended Petition in a case that was filed in the district court of Dallas County, Texas? A. Yes. That's the one we did first. Q. Okay. That was the first lawsuit in which you were a plaintiff against Swift and some other defendants? A. Yes, sir.</p>
<p>7 1 A. Yes. I'm sorry. 2 Q. And whenever I ask a question, I will assume 3 that you understand the answer (sic), so if for any reason 4 you don't understand a question, just please let me know. 5 Is that okay? 6 A. Okay. I sure will. 7 Q. One other thing we'll have to be careful about 8 is not talking over each other, so it will be helpful 9 if -- I will try to wait until you're finished answering 10 before I start talking again, and if you can wait until I 11 finish a question. Even if you know what the answer is, 12 let me finish and then give your answer so that it will be 13 easier for our court reporter to write down your answer. 14 Is that okay? 15 A. Okay. That's fine. 16 Q. Do you understand that you have been sworn under 17 oath? 18 A. Yes. 19 Q. And even though this is an informal setting 20 today, do you understand that it's just the same as if 21 you're giving testimony in a court of law? 22 A. Yes, sir. 23 Q. And we can take a break at any time, or if you 24 need to get something to drink, just let me know. That's 25 all right.</p>	<p>9 Q. And if you could go back about five or six more pages -- actually, probably more than that. Let's see. In Exhibit 1 to Exhibit 8, it's actually page -- numbered page 5. Do you see under the subparagraph 13 there that there's some allegations regarding you? A. Okay. Q. So you've had a chance to read those allegations? A. On mine only? Q. Yes. A. Yes. Q. And do those appear to be correct to you? A. Yes. Q. So let's just review them, if we can. First of all, you were first hired by Swift at the Cactus plant on October 28, 1988; is that correct? A. No, August. Q. I'm sorry. August 28, 1988? A. Yes. Q. And when we talk about the Cactus plant today, do you understand I'm talking about the processing plant -- the beef processing plant that's in the Cactus and Dumas area of Texas? A. Yes, sir. Q. And then the last day that you received wages</p>

<p>10</p> <p>1 from Swift was October 14, 2002; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. And then you were injured while working for</p> <p>4 Swift on July 2nd, 2002, correct?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And did you have a doctor order any restrictions</p> <p>7 on your work after that injury?</p> <p>8 MS. CANO: Objection, form.</p> <p>9 A. Can I skip on that one?</p> <p>10 Q. What do you mean, skip on it? Let me just reask</p> <p>11 it.</p> <p>12 A. I just --</p> <p>13 MS. CANO: If you know the answer, answer.</p> <p>14 A. No.</p> <p>15 MS. CANO: If you don't remember --</p> <p>16 A. I don't.</p> <p>17 Q. You don't remember. Okay. You're not -- you</p> <p>18 don't remember whether there were any restrictions that</p> <p>19 were placed on your work by a doctor after your injury in</p> <p>20 July of 2002?</p> <p>21 A. The only thing I remember is that they -- I</p> <p>22 mean, I couldn't lift anything over 50 pounds. That's</p> <p>23 what I remember. That's -- that I remember. That's the</p> <p>24 restriction I had.</p> <p>25 Q. When you first started working for Swift in</p>	<p>12</p> <p>other attorneys in preparation for your deposition today?</p> <p>A. No, sir.</p> <p>Q. Did you talk or meet with anyone else to prepare</p> <p>for your deposition today?</p> <p>A. No. I mean, the only thing -- I mean, coming on</p> <p>the way and that was it. I mean --</p> <p>MS. CANO: Don't -- just -- he's just</p> <p>asking whether or not you talked to anyone.</p> <p>A. No. No, I didn't, not --</p> <p>Q. And besides Ms. Cano, are there any other</p> <p>attorneys that are representing you and the proposed class</p> <p>in this case?</p> <p>A. Me or Ms. Cano?</p> <p>Q. Let me just reask that one. Besides Ms. Cano --</p> <p>A. Uh-huh.</p> <p>Q. -- are there any other attorneys that are</p> <p>representing you or the proposed class in this case?</p> <p>A. Yes.</p> <p>Q. And who are those, as best you can recall?</p> <p>A. Reyes.</p> <p>Q. Anyone else you can remember?</p> <p>A. That was his name, Reyes. That's it.</p> <p>Q. That's the most -- the best you can recall</p> <p>today?</p> <p>MS. CANO: If that's all you can remember,</p>
<p>11</p> <p>1 1988, did you join the union at that time?</p> <p>2 A. I don't remember.</p> <p>3 Q. Were you a member of a union while you were</p> <p>4 working at Swift, at least for some period of time?</p> <p>5 A. Yes.</p> <p>6 Q. And was there also a time when you withdrew from</p> <p>7 the union?</p> <p>8 A. Yes, I did.</p> <p>9 Q. And why was that?</p> <p>10 A. I never did have any need for them because I</p> <p>11 never got any help that I needed from them.</p> <p>12 Q. And do you remember approximately when you</p> <p>13 withdrew from the union?</p> <p>14 A. No, I don't.</p> <p>15 Q. Was that within a few years after you first</p> <p>16 started working there or was it closer to your</p> <p>17 termination?</p> <p>18 A. Like in the middle.</p> <p>19 Q. Okay. So perhaps the mid 1990s, something like</p> <p>20 that?</p> <p>21 A. Somewhere around there.</p> <p>22 Q. Did you review any documents or any information</p> <p>23 to prepare for your deposition today?</p> <p>24 A. No.</p> <p>25 Q. And besides Ms. Cano, have you talked with any</p>	<p>13</p> <p>it's all right.</p> <p>A. I'm just not on --</p> <p>MR. EBERLE: Do you want to go off the</p> <p>record for just a second?</p> <p>(Discussion off the record.)</p> <p>(Deposition Exhibit No. 10 marked for</p> <p>identification.)</p> <p>Q. (BY MR. EBERLE) We're back on the record, and</p> <p>I'm handing you what's been marked as Deposition</p> <p>Exhibit 10. And first, I wanted to see if your</p> <p>handwriting appears on the first page, at the top of</p> <p>Exhibit 10.</p> <p>A. Yes.</p> <p>Q. And then if you go to the second page, is that</p> <p>your signature that appears in the middle of the second</p> <p>page?</p> <p>A. Yes.</p> <p>Q. Now, this appears to be what's called an</p> <p>Attorney Employment Contract, but I notice on the second</p> <p>page that there's no -- it's not dated. Do you happen to</p> <p>recall when you signed Exhibit 10?</p> <p>A. I don't remember.</p> <p>Q. And do you remember where you might have been</p> <p>when you signed it, for example, at home or at the</p> <p>attorneys' office or any other place?</p>

<p>14</p> <p>1 A. Don't remember.</p> <p>2 Q. And there is a typewritten name, Angel Reyes, on</p> <p>3 the second page of Exhibit 2. Do you see that, on the</p> <p>4 right side?</p> <p>5 A. Uh-huh.</p> <p>6 Q. And he is with the Heygood Orr law firm. Do you</p> <p>7 see that?</p> <p>8 A. Yes.</p> <p>9 Q. How did you hear about the Heygood law firm?</p> <p>10 A. Through, I mean, Garcia.</p> <p>11 Q. And who is that?</p> <p>12 A. Domingo Garcia. He was another attorney that we</p> <p>13 had on our first case.</p> <p>14 Q. Do you know if Mr. Garcia was also an attorney</p> <p>15 on this case for the plaintiffs?</p> <p>16 A. On this second case?</p> <p>17 Q. Yes.</p> <p>18 A. No, not that I know of.</p> <p>19 Q. You don't think he was?</p> <p>20 A. No.</p> <p>21 Q. And before you signed Exhibit 10, do you</p> <p>22 remember having any communications with any of the</p> <p>23 attorneys at the Heygood law firm? Don't tell me what</p> <p>24 they were. I just want to know if you had any.</p> <p>25 A. I don't remember. I -- we just had so many that</p>	<p>16</p> <p>A. I do.</p> <p>Q. Okay. And what are those?</p> <p>A. You're talking about the costs, right --</p> <p>Q. Yes.</p> <p>A. -- what it will cost us? Do I have to answer</p> <p>that or --</p> <p>Q. Just to the best you can. If you don't --</p> <p>MS. CANO: If you know.</p> <p>Q. If you don't know, that's fine.</p> <p>A. Okay. I know we were looking at 40 percent.</p> <p>Q. Okay.</p> <p>A. Is that --</p> <p>Q. Let me just clarify. I think what you're</p> <p>referring to might be the contingent fee that the lawyers</p> <p>would receive if the case is successful. Is that what</p> <p>you're referring to?</p> <p>A. Is that what -- okay. So you're wanting to know</p> <p>what the case is worth -- I mean, we're looking at?</p> <p>Q. I'm looking at something different, which is if</p> <p>there are costs that would be incurred to pursue the case,</p> <p>like expert witness fees or things like that.</p> <p>MS. CANO: Expenses.</p> <p>Q. Yeah, expenses. Let's call it that way. Do you</p> <p>know what the expenses are for this class action?</p> <p>A. No, I don't.</p>
<p>15</p> <p>1 I don't -- I can't remember right off. I don't want to</p> <p>2 say yes and say no.</p> <p>3 Q. Okay. Did you contact any other attorneys about</p> <p>4 representing you and the proposed class in this case</p> <p>5 besides the Heygood firm?</p> <p>6 A. No, sir.</p> <p>7 Q. Have you ever checked any references for any of</p> <p>8 the attorneys at the Heygood law firm?</p> <p>9 A. What do you mean?</p> <p>10 Q. Tried to identify who their other clients may</p> <p>11 have been or get other information about their law firm</p> <p>12 before you signed Exhibit 10.</p> <p>13 A. No.</p> <p>14 Q. Do you know what experience the attorneys at the</p> <p>15 Heygood law firm have in class actions?</p> <p>16 A. I know it's quite a bit, but I don't -- I can't</p> <p>17 recall, I mean, every -- all that they --</p> <p>18 Q. You can't remember any of the details?</p> <p>19 A. Huh-uh.</p> <p>20 Q. Are you aware of any of the costs of this</p> <p>21 particular class action?</p> <p>22 A. What do you -- I mean --</p> <p>23 Q. Yeah. Do you know what any of the costs might</p> <p>24 be that will be incurred by the plaintiffs to continue</p> <p>25 this class action?</p>	<p>17</p> <p>Q. Do you understand if you are responsible for any</p> <p>of those expenses?</p> <p>A. No. I mean, I'm not -- never been told,</p> <p>never --</p> <p>Q. Do you know whether the attorneys in this case</p> <p>have hired any expert witnesses?</p> <p>A. I don't.</p> <p>Q. And do you know how much, if anything, your</p> <p>attorneys have paid to any expert witnesses?</p> <p>A. I don't know.</p> <p>Q. Do you know how much it might cost to provide</p> <p>notice of this case to other class members?</p> <p>A. I don't.</p> <p>(Deposition Exhibit No. 11 marked for</p> <p>identification.)</p> <p>Q. I've handed you what's been marked as Deposition</p> <p>Exhibit 11. And the first question, I guess, I have is:</p> <p>Have you seen this article before?</p> <p>A. Yes, I have.</p> <p>Q. And do you recall that sometime in March or</p> <p>April of 2007 you spoke with a reporter named Megan</p> <p>Feldman?</p> <p>A. Yes.</p> <p>Q. And then there's some information that you</p> <p>provided to Ms. Feldman that appears in this article; is</p>

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20

1 that right?

2 A. Yes.

3 Q. What I'd like to do -- and I'll come back to
4 this article a little bit later, but what I'd like to do
5 first is have you turn to the second page of Exhibit 11.
6 And you'll see the very last paragraph, the first sentence
7 says: Today Salcido, which is you, correct?

8 A. Uh-huh.

9 Q. It says: Today Salcido is a plaintiff in two
10 separate class action lawsuits against Swift. One alleges
11 that the company wrongly terminated dozens of injured
12 workers to save on workers' compensation costs, slashing
13 them from \$6 million in 2002 to just \$600,000 two years
14 later. Did I read that correctly?

15 A. Yes, you did.

16 Q. Okay. And is the first lawsuit that you had
17 against Swift the one that's referenced there about the
18 termination of injured workers?

19 A. Uh-huh. Yes.

20 Q. And then the article goes on. It says, quote,
21 another claims the company deliberately and systematically
22 replaced native workers with illegal Guatemalan immigrants
23 in a scheme to depress wages, end of quote. Did I read
24 that correctly?

25 A. Uh-huh.

we're talking about?

Q. That's part of it.

A. That are in the same case?

Q. Yes. Are there any other people that you
understand that are pursuing claims in this case against
Swift?

A. Just the ones that are with us.

Q. And with you, you mean the other seventeen
named --

A. That's right.

Q. -- plaintiffs?

A. Right. Yes, sir. I'm sorry.

Q. Do you understand that you have been proposed to
be a class representative in this case?

A. Yes.

Q. And as a class representative, what is your
understanding of any responsibilities you have to the
other members of the class, if any?

A. I mean, if I'm seeing this right, the way I look
at it is that I have to show, you know, that -- what I
have seen or what -- I mean, what was going on at the
time, why I would think they were hiring illegals and --
which I did see when I did work out there. And that's
really about it, I mean, that I know of. I mean, I can't
think of anything else.

19

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1 MS. CANO: You have to say yes or no.

2 A. Yes, sir.

3 Q. And is it your understanding that those are the
4 plaintiffs' claims, including your claim, in this case?

5 A. Yes, sir.

6 Q. Do you have any additional understanding of what
7 the case we're here about today concerns?

8 MS. CANO: Objection, overbroad.

9 A. The only thing -- I mean, what I say that we're
10 here for is -- I mean, on this case is that we -- I mean,
11 they fired us and they were hiring illegals in place of
12 us.

13 Q. Okay. Anything else you can think of right now?

14 MS. CANO: Objection, form, overbroad.

15 A. No. I don't remember.

16 Q. Do you know whether a class certification motion
17 has been filed in this case?

18 A. I don't recall. I mean --

19 Q. Do you know what people are members of the
20 proposed class?

21 A. What do you mean? I mean -- excuse me.

22 Q. Yeah. I guess my question is: Do you know who
23 are the people that are proposed to be included in the
24 class? How are they defined?

25 A. Like all the other seventeen? Is that what

Q. Okay.

A. I just have to prove that -- or show that, what
I did, what I saw, what -- you know, what made me -- what
made me think that they did hire illegals and that the
plant knew about it, stuff like that. That's what I -- I
mean, I'm thinking that's what this case is about.

Q. Okay. Let me hand you what was previously
marked as Exhibit 2. And why don't you just kind of
glance through that, and my question is going to be
whether you recall having seen Exhibit 2, which is the
Original Complaint in this case.

MR. EBERLE: Why don't we just go off the
record for a second.

(Discussion off the record.)

A. No.

Q. (BY MR. EBERLE) I'm sorry. So with respect to
Exhibit 2, you don't think you've seen that before?

A. I don't remember.

Q. On the very first page of Exhibit 2, if you go
to the front, you'll see that under the defendants, there
is an entity called Hicks, Muse, Tate & Furst. Do you see
that?

A. Okay.

Q. Do you know who that company is?

A. Swift Company or Hicks?

<p>22</p> <p>1 Q. The Hicks Muse company.</p> <p>2 A. No, I don't. I just know Swift.</p> <p>3 Q. Do you know whether Hicks Muse has been</p> <p>4 dismissed as a defendant in this case?</p> <p>5 A. No, sir.</p> <p>6 Q. Let me hand you what's been marked previously as</p> <p>7 Exhibit 3, which is the First Amended Complaint that was</p> <p>8 filed on December 28, 2006. My question is simply whether</p> <p>9 you recall having seen Exhibit 3 before.</p> <p>10 A. This does look familiar.</p> <p>11 THE REPORTER: I'm sorry?</p> <p>12 A. It does look familiar.</p> <p>13 Q. So you think you saw Exhibit 3 before, as best</p> <p>14 you can recall?</p> <p>15 A. They all look the same. I'm sorry. To me, they</p> <p>16 all look the same.</p> <p>17 Q. So nothing stands out in Exhibit 3?</p> <p>18 A. No. I mean, it just -- it doesn't -- I mean,</p> <p>19 nothing looks different than what all the other ones do,</p> <p>20 so --</p> <p>21 Q. Well, that may tell me --</p> <p>22 A. -- to me, I'd be looking at the same thing.</p> <p>23 Q. That may tell me your answer to the next</p> <p>24 question, which is, do you know what the differences are,</p> <p>25 if any, between Exhibit 2 and Exhibit 3?</p>	<p>24</p> <p>A. No, sir.</p> <p>Q. And I only have one more of these. This has</p> <p>been marked as Exhibit 4. And again, my question is: Do</p> <p>you recall having seen Exhibit 4 prior to today?</p> <p>A. Huh-uh. No, sir.</p> <p>Q. And then also, have you taken the time before</p> <p>today to look through Exhibit 4 to see how it is</p> <p>substantively different, if at all, from Exhibit 3 or</p> <p>Exhibit 2?</p> <p>A. Just this right here, and this.</p> <p>Q. So you're pointing to the first page of</p> <p>Exhibits 2, 3 and 4 and noting that the defendants are</p> <p>different in the various complaints?</p> <p>A. Yes.</p> <p>Q. As far as the details in the rest of Exhibit 4,</p> <p>have you tried to look before to see what the differences</p> <p>are between Exhibit 4 and Exhibit 3?</p> <p>A. These two? Just this right here.</p> <p>MS. CANO: If you can.</p> <p>Q. Yeah, maybe the easier question for me to ask is</p> <p>simply whether before today you've tried to compare</p> <p>Exhibit 4 and Exhibit 3.</p> <p>A. Well, just now, yes.</p> <p>Q. Okay. But before that, you haven't?</p> <p>A. No.</p>
<p>23</p> <p>1 A. There's a few things down here. I guess what I</p> <p>2 mainly look at is right here, and that's --</p> <p>3 Q. And right here, you're pointing to the first</p> <p>4 page --</p> <p>5 A. On this exhibit right here, there's -- I mean,</p> <p>6 right here where it says, civil action, which is not on</p> <p>7 here -- I mean, the way it -- and yeah, they're a little</p> <p>8 bit different, but --</p> <p>9 Q. Okay. As far as any of the details in</p> <p>10 Exhibits 2 and 3, though, have you taken the time before</p> <p>11 today to go through and try to figure out what --</p> <p>12 A. No, I haven't.</p> <p>13 Q. -- the differences are?</p> <p>14 A. No, I haven't.</p> <p>15 Q. And on the first page of Exhibit 3 -- if you</p> <p>16 could take a look at the first page of 3, you'll see that</p> <p>17 on this one, there's a defendant called Capital</p> <p>18 Partners -- HM Capital Partners of Dallas.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Do you see that?</p> <p>21 A. Right here, yeah.</p> <p>22 Q. Do you know what that company is?</p> <p>23 A. No, I don't.</p> <p>24 Q. Do you know whether or not HM Capital Partners</p> <p>25 has been dismissed as a defendant in this case?</p>	<p>25</p> <p>Q. Okay. I think that's all I needed to know.</p> <p>A. Okay.</p> <p>MR. EBERLE: Why don't we just take a quick</p> <p>second. We'll go off the record.</p> <p>(Discussion off the record.)</p> <p>Q. (BY MR. EBERLE) Why don't we go back to</p> <p>Exhibit 11, which is the article that we were talking</p> <p>about before. What I'd like to do is have you go to page</p> <p>8, numbered at the top. And let me just read out loud the</p> <p>first couple of sentences.</p> <p>It says: Amanda Salcido was helping out in</p> <p>the training room when she noticed something wasn't right,</p> <p>period. Large numbers of Guatemalans had begun arriving</p> <p>at the Cactus plant sometime in 2000, after a Swift plant</p> <p>in Kansas burned down, and most of the new arrivals were</p> <p>short and squat, with Mayan features and little mastery of</p> <p>English or Spanish, end of quote. Did I read that</p> <p>correctly?</p> <p>A. Yes.</p> <p>Q. Okay. And is this information that you provided</p> <p>to the reporter that wrote the article, which is</p> <p>Exhibit 11?</p> <p>A. Yes.</p> <p>Q. And is that information accurate?</p> <p>A. Yes.</p>

<p>26</p> <p>1 Q. Okay. And I guess my first question on the</p> <p>2 first sentence is: It refers to a training room. What</p> <p>3 was that?</p> <p>4 A. The training room is where they took them to</p> <p>5 train them, to get them ready to put them out on the</p> <p>6 floor, and that's where they would go first when they</p> <p>7 first started working there, anybody.</p> <p>8 Q. Okay. So these are any new employees?</p> <p>9 A. Yes. And that's where they would make the IDs,</p> <p>10 in there, and they had to fill out paperwork and stuff</p> <p>11 like that in there --</p> <p>12 Q. Okay. And --</p> <p>13 A. -- first.</p> <p>14 Q. And you were working there at least for some</p> <p>15 period of time?</p> <p>16 A. Yes. They had me -- because I -- since I knew</p> <p>17 both English and Spanish, they had me helping them over</p> <p>18 there sometimes when they needed me, so I would go over</p> <p>19 there and help them and do filing and all that for them.</p> <p>20 During this time, they had so many coming</p> <p>21 down from Kansas that it was too much just for the two</p> <p>22 people they had in there, that they had to bring more help</p> <p>23 in to get all these people in, and they called on me to</p> <p>24 help them out.</p> <p>25 Q. Okay. I'll come back and ask a little bit more</p>	<p>28</p> <p>couple days or was it --</p> <p>A. Oh, no.</p> <p>Q. -- a couple months?</p> <p>A. No. It was during like the whole year.</p> <p>Q. Okay.</p> <p>A. But it was, you know, off and on.</p> <p>Q. During about a year period, something like that?</p> <p>A. Even until the last, I mean, that I got</p> <p>terminated, they were still using me over there, so it had</p> <p>to have been longer than that.</p> <p>Q. Okay. Is it accurate to say that you spent more</p> <p>time helping in the training room area immediately after</p> <p>this fire in 2000 as opposed to maybe --</p> <p>A. Oh, yes.</p> <p>Q. -- later on?</p> <p>A. Yes.</p> <p>Q. Okay. And this -- the article specifically</p> <p>mentions your talking to the reporter about large numbers</p> <p>of Guatemalans; is that right?</p> <p>A. Yes.</p> <p>Q. Were there any other nationalities of people</p> <p>that were arriving in this time frame in 2000 after the</p> <p>Kansas plant had burned?</p> <p>MS. CANO: Objection, form.</p> <p>A. No.</p>
<p>27</p> <p>1 about that. But had you been helping out in the training</p> <p>2 room prior to this time --</p> <p>3 A. Yes.</p> <p>4 Q. -- in 2000?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. How often did that happen?</p> <p>7 A. Not very often.</p> <p>8 Q. And during those times before 2000, did you</p> <p>9 notice any workers who you believed might be unauthorized</p> <p>10 to work?</p> <p>11 A. That were brought from over there or somebody</p> <p>12 else?</p> <p>13 Q. Just in general. Just any employees that were</p> <p>14 new coming into Swift that you felt, based on what you</p> <p>15 could tell, might have been illegal.</p> <p>16 A. No. No.</p> <p>17 Q. So let's go back to this time when you were</p> <p>18 helping out in 2000, after the Kansas plant had burned</p> <p>19 down. How long did you work in the training room during</p> <p>20 that time frame?</p> <p>21 A. They had me in there -- I mean, I wasn't always</p> <p>22 in there. I mean, like I said, they would call on me when</p> <p>23 they needed me. They would call on me to help them out,</p> <p>24 but it wasn't all the time that I --</p> <p>25 Q. For what length of time? Was it like just a</p>	<p>29</p> <p>MS. CANO: Calls for speculation.</p> <p>A. I don't remember. Really, mostly what came --</p> <p>came through that -- and during that time, it was just the</p> <p>people that were coming from over there. I guess that's</p> <p>all they were taking, because I didn't see anybody else.</p> <p>I mean, I know a lot of people from Dumas, I've been there</p> <p>forty-three years, so I would have known, you know, if</p> <p>somebody else would have came through that I would have</p> <p>recognized. But none of these people were anybody that I</p> <p>recognized, and all the ones that we were getting, they</p> <p>were coming from Kansas.</p> <p>Q. Okay. And you indicated that you felt that</p> <p>these -- was it your personal understanding that these</p> <p>people who were coming from Kansas were originally from</p> <p>Guatemala?</p> <p>A. I was told they were from Guatemala.</p> <p>Q. Okay. And who told you that?</p> <p>A. It was one of guys that -- he was -- he came</p> <p>with the group, and he told me he was illegal himself.</p> <p>And the thing was that he -- I guess it's not important,</p> <p>but he -- we had been talking and everything and he had</p> <p>just been trying to make moves on me, and I told him I</p> <p>didn't want nothing to do with him.</p> <p>Okay. So we were talking for a while and</p> <p>everything. Well, he was saying, you know, his name was</p>

<p style="text-align: right;">30</p> <p>1 Jose or -- and then Miguel. And I said, well, what's your 2 real name? He goes, I'm sorry, he said, because I'm using 3 illegal documents. He goes, I'm not, you know, from here. 4 He goes, but I want to get my papers fixed. 5 So in my mind, I thought this is what he 6 wants, you know, somebody to fix his papers, you know, so 7 I just -- no. And he told me -- he goes, yeah, he goes, a 8 lot of these people that came, you know, we're all 9 illegals, he goes, and we're just coming here to work, you 10 know. He goes, we came from that plant because it burned 11 down. And I said, oh, and I go, I understand. 12 Q. Okay. And was this conversation you're 13 describing sometime in 2000, after the plant had -- 14 A. Yes. 15 Q. -- shortly after the plant had -- 16 A. After. 17 Q. -- burned down? 18 A. Uh-huh. Yes. 19 Q. And the person -- and the person you're 20 describing was a new employee at the Swift plant in 21 Cactus? 22 A. Right. He was one of the Kansas -- employees 23 that came from Kansas, from the same plant these other 24 people came from. 25 MS. CANO: May we have the agreement, as we</p>	<p style="text-align: right;">32</p> <p>Central Americans, many of whom came from the same highland area and spoke a Mayan dialect, not English or Spanish, were for the most part undocumented, end of quote. Did I read that correctly? A. Yes. Q. And is that information accurate? MS. CANO: Objection, form. A. Yes. Q. Okay. And I know you were -- I saw that you were reading farther down in that paragraph. My initial question was whether the first two sentences were accurate, in other words, that you and your co-workers knew that these Guatemalans who were arriving starting in 2000 were for the most part undocumented. MS. CANO: Objection, calls for speculation. A. Yes. Q. And then the paragraph continues and talks about the Guatemalan workers arriving, it began as a trickle around 2000 and soon became a constant stream. Is that consistent with your recollection? A. That's what I was looking -- I mean, I -- what is meant by that. I mean -- Q. Well, let's back up for a second. There were a large number, I think you said, of Guatemalans who arrived</p>
<p style="text-align: right;">31</p> <p>1 did in the prior depositions, that objection to form will 2 cover objections except as to privilege or 3 nonresponsiveness? 4 MR. EBERLE: Yeah, that's fine. I know 5 that there are under the federal rules certain objections, 6 not necessarily form, but other objections might be waived 7 under the federal rules. But as far as form objections, 8 that's fine. 9 MS. CANO: All right. 10 A. In fact, he's still working there. 11 Q. This person -- 12 A. Yes, he is. 13 Q. -- you're talking about? Do you know what his 14 name was that was on his -- even if it might be an 15 inaccurate one? 16 A. I cannot remember. Like I said, Jose and 17 Miguel, you know. He was two different people. But I 18 sure could get that name. I don't have a problem with it. 19 And, in fact, I saw him last week, so -- 20 Q. Why don't we go back, if we could, to page 2 on 21 Exhibit 11. See the first full paragraph at the top 22 there? And this is continuing information, I believe, 23 that you had provided to the reporter. 24 It says, quote, she felt bad for the 25 Guatemalans. She and her co-workers knew that the tiny</p>	<p style="text-align: right;">33</p> <p>from the Kansas plant -- A. Uh-huh. Q. -- in 2000 to begin working at the Cactus plant for Swift; is that right? A. Yes, sir. Q. And then were there continually Guatemalans arriving thereafter as well? A. Yes. Uh-huh. They were -- they kept coming in and kept coming in and kept coming in. And after that, it was like that's all you saw out there anymore, you know, just pure Guatemalans, you know. I mean, you could tell right away that they were. I mean, they're little. Some of them looked like thirteen-year-olds, I mean, you know. I mean, I know they had to have been at least thirteen. And I know there was quite a few times that, you know, that people out there would ask them how old they were, and they were afraid to say. Some of them did, you know, say they were thirteen years old. Q. And it was your understanding based on the communications you had with some of these Guatemalans that they were illegal and were not -- A. Oh, yes. Q. -- authorized to work in the United States? A. Yes. Q. And did you have discussions with any of your</p>

<p>34</p> <p>1 co-workers at Swift about that while you were working 2 there?</p> <p>3 A. What I did -- when we were there doing the 4 paperwork, I did tell one of the ladies, I just can't 5 remember who she was, that I didn't want nothing to do 6 with doing any of the paperwork anymore because I was 7 afraid to get in trouble. I didn't know what would happen 8 if they -- if Swift got busted with this deal, if I was 9 going to get involved in it, too, so I didn't want nothing 10 to do with it. I told her I was going to go finish 11 cleaning my lockers, because I used to clean the locker 12 room, and I left from there.</p> <p>13 Q. And this woman that you spoke with, was she 14 another person from production that was helping there or 15 was she a management employee?</p> <p>16 A. She was management. I just can't -- I can't 17 remember who she -- exactly who it was.</p> <p>18 Q. And --</p> <p>19 A. I was really about the only one that they did 20 take out from the floor -- or not from the floor, because 21 I was in the locker room. That was my job right there. 22 But since I knew a bunch of stuff about this, I mean, 23 filling out paperwork, helping them out, they would call 24 on me to help them out when they needed somebody. 25 Q. And after you said you didn't want to do that</p>	<p>36</p> <p>Q. And do you remember any of the people who you specifically talked to about this in the 2000 or 2001 time frame?</p> <p>A. No. We all sat in the locker rooms. I mean, it was quite a few of us that would sit there, you know, and -- I mean, it was quite a few women. We -- it wasn't just one person that would sit there. All the women that came from fab, from kill floor, we'd all sit there together. But I don't remember -- recall who -- who was there when we were talking.</p> <p>Q. Would you say that it was common knowledge in the 2000 and 2001 time frame that these Guatemalans were not authorized to work in the United States who were now working at the Cactus plant?</p> <p>A. We never really saw them. We never did see Guatemalans working there. It was very unusual. I mean, it's like saying -- I'm not saying that I'm white, you know, but, you know, you see somebody from Mexico coming in, it's not -- you know, it's just -- you know, to you, it's like somebody else, you know. I mean, my husband is from Mexico, but he's fixed, you know, so that's the way I would think.</p> <p>But when you see somebody from Guatemala, it's like seeing these black people now that are there, you know. You know the difference. I mean, that -- you</p>
<p>35</p> <p>1 work anymore, just in general did you have any 2 conversations with any of your co-workers at Swift about 3 the fact that these Guatemalans that were undocumented 4 were being hired by Swift?</p> <p>5 A. Yeah. I mean, we -- I did, you know, and -- you 6 know, in the locker room, I did have, you know, a 7 conversation with them and, you know, told them that they 8 were hiring a lot of -- well, to me, it wasn't making fun 9 of them. I mean, maybe I'm -- I may be wrong, but, you 10 know, I would tell them, you know, how could they work? 11 You know, they're that little. You can tell they're 12 little kids. I mean, they can't -- and they had to put 13 little deals, stools to -- so they could reach the tables 14 sometimes.</p> <p>15 But I was telling them, you know, how 16 little they were, they couldn't -- I go, they can't even 17 speak English, I mean, and they can't even speak Spanish. 18 I said, and -- you know, but they run by these, you know, 19 white names. I said, not even me that -- which I thought 20 it was funny in a way, you know, because I said, I've been 21 here forty-something years and I can't even run by a white 22 name. If I got married, yes.</p> <p>23 But I said, you know, somebody comes from 24 Guatemala and they're already Smith or whatever, you know. 25 I said, I can't even run by that last name.</p>	<p>37</p> <p>know they're coming from another country. It's not the, you know, same country that -- I mean, it's not just Mexico. You know they're coming from somewhere else because they don't look nothing like the people from Mexico. I mean, they're just little kids. I mean, they look like little people. I mean, to me, they reach to me about right here, so that's how, I mean, I could tell the difference, you know, that we were getting different people.</p> <p>Q. And I guess what I wanted to focus on, though, was, once the Guatemalans started arriving in 2000 and 2001, it sounds like there were discussions among the other Swift workers that you had where you were talking about the fact that these Guatemalans were there.</p> <p>A. Uh-huh.</p> <p>Q. Is that correct?</p> <p>A. Yes.</p> <p>Q. And was it your view that it was -- it just became common knowledge there that these Guatemalans were not authorized to work in the United States and yet they were working at the Cactus plant?</p> <p>A. Yes. I mean, I knew that already. And the people that I had conversations with, that's why we were laughing, you know, for the fact that they were running by a last name that just wouldn't match them, you know. And</p>

<p>38</p> <p>1 that's why it just -- that's where it made it obvious</p> <p>2 right there that they were illegals, you know, because of</p> <p>3 the last name.</p> <p>4 And I -- and the fact that I had told</p> <p>5 Oscar, you know, which he's the human resource guy, about</p> <p>6 that, and I told him -- I said, you know, this guy's</p> <p>7 running by -- you know, his last name, you know, it's a</p> <p>8 white name, Smith. I said, not even me, that I've lived</p> <p>9 here so many years, I can run by that last name. He goes,</p> <p>10 don't worry about it. He goes, just keep filling out the</p> <p>11 paperwork.</p> <p>12 But he said it in a rude way, you know. He</p> <p>13 didn't say it like just keep on, just don't worry about</p> <p>14 it, you know. But he said it in a rude way, you know,</p> <p>15 where it just made me think, okay, he's got something to</p> <p>16 do with this. You know, if he would have said it in a</p> <p>17 joke way or something, you know -- you know, in a nice</p> <p>18 way, I would have said, well, maybe he doesn't know, you</p> <p>19 know. But he said it in a rude way where -- you know,</p> <p>20 don't let everybody know, you know, just don't worry about</p> <p>21 it.</p> <p>22 Q. So is the Oscar you're referring to Oscar</p> <p>23 Arriaga?</p> <p>24 A. Arriaga.</p> <p>25 Q. And you mentioned documentation. Did you</p>	<p>40</p> <p>her time.</p> <p>Q. Were you aware of anyone else in this 2000 time</p> <p>frame until you left Swift in October of 2002 who was</p> <p>providing any kind of false documentation to any new</p> <p>employees or other employees at Swift?</p> <p>A. There was other people besides her, but I -- she</p> <p>had told me somebody that -- he was from Cactus -- that</p> <p>had something to do with it, that he knew that Swift</p> <p>had -- knew about this, you know, about what was going on.</p> <p>So otherwise -- because I guess he would give them all the</p> <p>documents and this is what they were supposed to run by,</p> <p>you know, this name, and they already had the paperwork</p> <p>there.</p> <p>And what was so unusual was a lady I know</p> <p>that she got terminated, too, and she was on light duty --</p> <p>this was way after we were terminated -- she said that</p> <p>when they terminated her -- and she said it wasn't true,</p> <p>but she didn't have nobody to, you know, to help her prove</p> <p>that -- you know, what they were saying against her.</p> <p>She said that she was standing there by the</p> <p>front office, where you walk out at Swift, and right there</p> <p>they have that employment office right there where they</p> <p>hire them. And she said it was after 7:00 at night, and</p> <p>she said that they had a bunch of Guatemalans in there.</p> <p>And I said, what hour is that for them to have people at</p>
<p>39</p> <p>1 actually see some of the papers that these Guatemalans</p> <p>2 brought with them?</p> <p>3 A. They didn't know who they were, so they had to</p> <p>4 look at the -- their -- I guess their socials or whatever</p> <p>5 they were running. That was another thing. I mean,</p> <p>6 you've got to know for so many years if you're, what -- a</p> <p>7 little kid that's ten years old knows his name by now. I</p> <p>8 mean, why wouldn't an eighteen-year-old that's supposed to</p> <p>9 be working there at eighteen know his name, his first name</p> <p>10 and last name?</p> <p>11 Q. Did any of these Guatemalans in the 2000 or 2001</p> <p>12 time frame tell you where they had received what</p> <p>13 apparently were false documents?</p> <p>14 A. No. But I knew of a lady that did -- that was</p> <p>15 selling it to them.</p> <p>16 Q. Okay. And who was that?</p> <p>17 A. She was here from Amarillo, and she would go</p> <p>18 over there and sell them the papers. And she was -- she's</p> <p>19 been put in prison and everything for it already.</p> <p>20 Q. Okay. Was this anyone that worked for Swift?</p> <p>21 A. A lady that worked there, no.</p> <p>22 Q. And you said this person you're talking about</p> <p>23 that was providing false papers, so to speak, to these</p> <p>24 workers has been put in jail, apparently?</p> <p>25 A. Yes. She's already gone to prison and served</p>	<p>41</p> <p>that hour? That office closes at 5:00. They wouldn't</p> <p>even let anybody go in there after 5:00. But these</p> <p>Guatemalans are in there after 7:00? And she goes, well,</p> <p>you know what they were up to.</p> <p>Q. Well, do you know the name of this woman?</p> <p>A. Yeah. In fact, she goes to our church. I gave</p> <p>her name to somebody, but -- Rivera, Cecilia Rivera.</p> <p>Q. And how do you spell the last name?</p> <p>A. R-I-V-E-R-A.</p> <p>Q. And do you know when she stopped working at</p> <p>Swift, approximately?</p> <p>A. I really -- I couldn't tell you exactly. I</p> <p>couldn't even remember the year that that happened. I</p> <p>know it was after us, you know, after we were terminated.</p> <p>Q. So it was sometime after October of 2002?</p> <p>A. Oh, yeah.</p> <p>Q. Let me have you turn to page 9 of Exhibit 11, if</p> <p>you could. And the second paragraph, the first sentence</p> <p>says, quote, numerous other former workers said it was</p> <p>common knowledge that a large number of employees were</p> <p>using stolen IDs, end of quote. Did I read that</p> <p>correctly.</p> <p>A. Yes. Right here.</p> <p>Q. And is that accurate, to your knowledge?</p> <p>MS. CANO: Objection, calls for</p>

<p>42</p> <p>1 speculation.</p> <p>2 A. Well, I kind of knew that already because of</p> <p>3 this lady that I told you that -- that's why I knew they</p> <p>4 were using stolen IDs, because of her.</p> <p>5 Q. Okay. And this was -- you knew this in the 2000</p> <p>6 time frame when the Guatemalans --</p> <p>7 A. Yes.</p> <p>8 Q. -- started arriving?</p> <p>9 A. Oh, yeah. Yes.</p> <p>10 Q. Do you know when that woman was arrested,</p> <p>11 approximately?</p> <p>12 A. She got out last year. I think she served like</p> <p>13 two years, I think, close to two years, not less.</p> <p>14 Q. So if she was out of prison in 2007, she might</p> <p>15 have gone into prison around 2005?</p> <p>16 A. 5.</p> <p>17 Q. Does that sound about right?</p> <p>18 A. Somewhere in there.</p> <p>19 Q. If you go down two more paragraphs -- and I'll</p> <p>20 just read this. It says, quote, Serrato, Salazar and</p> <p>21 others also said that vans, even buses, full of</p> <p>22 Guatemalans would sometimes arrive at the plant, end of</p> <p>23 quote.</p> <p>24 A. No, they were vans.</p> <p>25 Q. Okay.</p>	<p>44</p> <p>Q. I'm sorry. You said it was 2000 and 2001?</p> <p>A. About -- between -- about -- yeah, between 2000,</p> <p>2001 when that happened, somewhere around there, or two --</p> <p>it was in between that time. Because I would have to sit</p> <p>out there and wait for my ride to come for me, and they</p> <p>have a deal out there where you sit down, and they would</p> <p>be arriving. Because I would get out kind of early, so I</p> <p>would sit out there and wait for my ride to come out from</p> <p>inside the plant, and while I was waiting, the second</p> <p>shift people were coming in.</p> <p>And that's one thing that -- most of the</p> <p>Guatemalans were put on second shift, you know. There</p> <p>were -- that's where I seen most of them. They were on</p> <p>second shift. There was very few they had on first shift.</p> <p>Now, when I -- when we were terminated, I</p> <p>had gone over there because I had to go pick up my husband</p> <p>one time from work -- this was about -- I don't even know</p> <p>what year it was that I had gone to go pick him up. But</p> <p>it was where -- and I even asked him that question, you</p> <p>know. I said, there's quite a few Guatemalans now, you</p> <p>know, I said, in the daytime, because I remember that they</p> <p>were all on nights mostly. And he goes, yeah. He goes,</p> <p>they're hiring quite a bit out there, he goes -- he said,</p> <p>even in the daytime.</p> <p>He said, but -- he goes -- I told him,</p>
<p>43</p> <p>1 A. Vans.</p> <p>2 Q. They were vans?</p> <p>3 A. I mean, I agree to the vans, yes. I never saw</p> <p>4 buses. But I see -- because I never -- thought when they</p> <p>5 were going to stop coming out of them vans, because, I</p> <p>6 mean, there could be ten in a minivan. I mean, they would</p> <p>7 just come out one after another, and I thought, God, you</p> <p>8 know, when are they going to stop coming out? Where do</p> <p>9 they have all that room to sit?</p> <p>10 Q. So I imagine -- it sounds like they were able to</p> <p>11 fit quite a few of these --</p> <p>12 A. Yes.</p> <p>13 Q. -- Guatemalans in the vans.</p> <p>14 A. That's why they -- I guess they were that</p> <p>15 little, they could all fit that many in there. I don't</p> <p>16 know.</p> <p>17 Q. Okay. And what I wanted to do is just check on</p> <p>18 the time frame. Were these vans arriving with the</p> <p>19 Guatemalans in the 2000 and 2001 time frame?</p> <p>20 MS. CANO: What page are you looking at?</p> <p>21 MR. EBERLE: Page 9.</p> <p>22 A. Yeah, it was around 2001, around that time.</p> <p>23 Several former employees --</p> <p>24 Q. No, it's right here.</p> <p>25 A. Oh, okay.</p>	<p>45</p> <p>well, they never used to, and I said, now that we're not</p> <p>there, you know, they're hiring all these, you know,</p> <p>people in the daytime now. He goes, well, they've been</p> <p>hiring them for a while. So I don't know how long a while</p> <p>was to him, you know, but he said that they had been</p> <p>hiring them for a while out there.</p> <p>Q. Okay. I should have asked you this before, but</p> <p>after you left working at Swift on October 14 of 2002, did</p> <p>you ever return to work at Swift?</p> <p>A. No, I didn't.</p> <p>Q. Okay. And then were you occasionally -- it</p> <p>sounded like you may have been occasionally back out at</p> <p>the plant after October of 2002; is that right?</p> <p>A. Gone back over there?</p> <p>Q. Yes.</p> <p>A. To take paperwork that -- I had to take some</p> <p>paperwork back over there. But they wouldn't really, you</p> <p>know, let me go through, you know. Most of the time they</p> <p>would bring me my paperwork up there to the security, up</p> <p>there to the front. I guess they didn't want me in there.</p> <p>I don't know.</p> <p>And I did pick up -- well, this was a</p> <p>few -- a few months ago that I had to go over there and</p> <p>pick up a man that got real sick. I was taking care of</p> <p>his wife, who had cancer, and I went to go pick him up and</p>

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<p>1 I waited in there because I didn't know how sick he was.</p> <p>2 He just called me and said he was sick and that he didn't</p> <p>3 feel good at all, so I didn't know what condition he was</p> <p>4 in, so I went in there and waited, but this was only a few</p> <p>5 months ago.</p> <p>6 Q. And did you say -- was your husband an employee</p> <p>7 at Swift as well?</p> <p>8 A. Yes.</p> <p>9 Q. And is he still working there?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And do you know when he started working</p> <p>12 there?</p> <p>13 A. In eighty -- I think it was in 1980 when he</p> <p>14 started.</p> <p>15 Q. Okay.</p> <p>16 A. He's been there twenty-seven years.</p> <p>17 Q. Okay. So he's been a long-time employee?</p> <p>18 A. Yeah.</p> <p>19 Q. Let me have you turn to the next page of</p> <p>20 Exhibit 11, which is page 10. And the next few paragraphs</p> <p>21 talk about when you were talking to the Swift employees on</p> <p>22 October 14, 2002. And what I wanted to do was have you</p> <p>23 focus more on the second and third paragraphs at the top</p> <p>24 of page 10.</p> <p>25 A. Where it says, Salcido?</p>	<p>understand why they would do something like that. You</p> <p>know, supposedly they bought out this plant how many times</p> <p>and never did this, you know, in all them times. It went</p> <p>from Monfort, ConAgra, you know, to Swift and we never had</p> <p>to go through this, so it was very unusual to us.</p> <p>Q. Okay. And is it correct that you told</p> <p>Mr. Arriaga on October 14, 2002, quote, why don't you get</p> <p>rid of all the illegals, why me, closed quote?</p> <p>A. Right. Yes, I did. I said, if you need to get</p> <p>rid of anybody out there, it needs to be your illegals,</p> <p>not us.</p> <p>MR. EBERLE: Why don't we take a short</p> <p>break here since we've been going for a while.</p> <p>(Recess from 1:07 p.m. to 1:11 p.m.)</p> <p>Q. (BY MR. EBERLE) Let me have you go back to</p> <p>Exhibit 9, if I could. And if you could turn to page 7.</p> <p>And the question number 4 -- this is interrogatory number</p> <p>4 on page 7 of Exhibit 9 -- asks for information that you</p> <p>may have been aware of concerning Swift providing false</p> <p>documents or other assistance to illegal immigrants.</p> <p>And your response says, quote, I heard that</p> <p>Oscar Arriaga had the Social Security numbers and name</p> <p>cards ready for the new employees when they arrived.</p> <p>These were statements made openly by employees, closed</p> <p>quote. Did I read that correctly?</p>
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<p>1 Q. Yes.</p> <p>2 MS. CANO: Just the -- just that little</p> <p>3 section or --</p> <p>4 MR. EBERLE: Yeah.</p> <p>5 Q. Let me just back up, then, and just ask a few</p> <p>6 questions. The first one is, it appears that before you</p> <p>7 were called into the office on October 14, 2002, you</p> <p>8 weren't aware that Swift was telling workers who were</p> <p>9 under restrictions that they would be put on a leave of</p> <p>10 absence for eighteen months --</p> <p>11 A. No, sir.</p> <p>12 Q. -- and if they didn't have any improvements that</p> <p>13 then they would be permanently terminated.</p> <p>14 A. No.</p> <p>15 Q. So you didn't know that?</p> <p>16 A. No. And that's what -- that's what --</p> <p>17 MS. CANO: That's the question.</p> <p>18 Q. Okay. And then I guess my next question is:</p> <p>19 When you were called in, you indicated that Mr. Arriaga</p> <p>20 told you that -- it says, quote, they bought the company,</p> <p>21 but not the light-duty people, closed quote.</p> <p>22 A. Right.</p> <p>23 Q. And what did you understand that to mean?</p> <p>24 A. Well, I just couldn't understand it because I</p> <p>25 had been working there fifteen years. I couldn't</p>	<p>A. Yes. What I was saying is that he would already</p> <p>have papers ready for these people when they came in.</p> <p>That's -- you know, whoever they were supposed to be.</p> <p>There was, I guess -- that was, in their word, what they</p> <p>would say, you know, the people out there, that that's how</p> <p>it would work.</p> <p>Q. Okay. When you say the people out there, who</p> <p>are you referring to?</p> <p>A. Just people who work out there.</p> <p>Q. At the Swift plant?</p> <p>A. At Swift.</p> <p>Q. And when you're saying that these Social</p> <p>Security numbers and name cards would be ready, were these</p> <p>the Guatemalans that started arriving --</p> <p>A. Yes.</p> <p>Q. -- in 2000?</p> <p>A. Yes. What was so weird was that not too long</p> <p>ago, about two years ago, I was -- no -- yeah, it had been</p> <p>two -- when that raid -- after that raid, right after that</p> <p>raid happened, my son received a letter from the</p> <p>insurance, from COBRA, that, you know, if he wanted to</p> <p>keep on with his insurance, he could go ahead and keep on</p> <p>with it, and if not, you know, that they were going to go</p> <p>ahead and dismiss his insurance.</p> <p>And I thought for a while. I said, what's</p>

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<p>1 going on? My son hasn't worked out there for a long time.</p> <p>2 So it just, you know, made we wonder whether they were</p> <p>3 using people's papers that were working out there before,</p> <p>4 if they were giving them to them. Why would he get a</p> <p>5 letter when he hasn't been working out there for years?</p> <p>6 And just right after that raid, this letter comes in.</p> <p>7 Q. Okay. But as far as you know, you don't have</p> <p>8 any actual evidence of Swift using --</p> <p>9 A. I don't.</p> <p>10 Q. -- other former employees' identities to give to</p> <p>11 new employees?</p> <p>12 A. No.</p> <p>13 Q. Backing up to this information that you say you</p> <p>14 heard about Oscar Arriaga. Did you hear about that in the</p> <p>15 2000 time frame, when these Guatemalans started arriving</p> <p>16 from the Kansas plant?</p> <p>17 A. It wasn't right on 2000. It was after -- after</p> <p>18 that.</p> <p>19 Q. Do you think it was more in 2001, then?</p> <p>20 A. Yeah, somewhere after that year.</p> <p>21 Q. Somewhere after 2000?</p> <p>22 A. Yeah.</p> <p>23 Q. Okay. Do you think it was in 2001, though?</p> <p>24 A. After that. I had to have been --</p> <p>25 Q. It was still after that?</p>	<p>the new Guatemalans, you weren't aware of that happening</p> <p>in 2000 or 2001, as best you can recall?</p> <p>A. No. I think all them people already came with</p> <p>their papers already from Kansas.</p> <p>Q. Is there anything else you can think of relating</p> <p>to the Guatemalans that you can recall, as far as either</p> <p>their being undocumented or anything else along those</p> <p>lines?</p> <p>MS. CANO: Form. Objection, form.</p> <p>A. Well, just -- I mean, that's all, I mean, I know</p> <p>because of what I experienced there in the -- I mean, when</p> <p>I was doing that. You know, that's what made me know, you</p> <p>know, that they were using other people's documents.</p> <p>Because they didn't know English. They didn't know</p> <p>Spanish. They had, you know, their own language. And so</p> <p>I -- and then the way, you know, they had to read their</p> <p>deals to know who they were, you know. You know, anybody</p> <p>who has to read what their name is -- maybe their birth</p> <p>date is different or social, but their names -- and there</p> <p>was something else that I wanted to say. I don't know if</p> <p>I'm allowed to say it.</p> <p>Q. Go ahead.</p> <p>A. All the -- whenever this raid came in -- Swift</p> <p>never before, never advertised anything, never. I mean,</p> <p>you would never see any advertisement nowhere. When this</p>
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<p>1 A. Uh-huh.</p> <p>2 Q. Do you think it was in 2002, before you left?</p> <p>3 A. About 2002, yeah.</p> <p>4 Q. So sometime in 2002, before you left the plant</p> <p>5 in October, you think you heard this information about</p> <p>6 Mr. Arriaga having Social Security numbers and name cards</p> <p>7 ready for new employees when they arrived?</p> <p>8 A. Yes.</p> <p>9 Q. And --</p> <p>10 A. And I heard that afterwards, too. It wasn't</p> <p>11 just during that time. It was afterwards, too.</p> <p>12 Q. Okay. But let me just back up and focus on that</p> <p>13 time frame --</p> <p>14 A. Okay.</p> <p>15 Q. -- in 2002. Your response to interrogatory 4 in</p> <p>16 Exhibit 9 also says that these statements were made openly</p> <p>17 by employees, and my first question is: Which employees?</p> <p>18 Can you identify anyone specifically?</p> <p>19 A. Not right offhand.</p> <p>20 Q. And were these statements that you're referring</p> <p>21 to being made, that was in the 2002 time frame, as best</p> <p>22 you can recall?</p> <p>23 A. Yeah.</p> <p>24 Q. So I take it, to your knowledge, the Social</p> <p>25 Security numbers and time -- name cards being ready for</p>	<p>raid came in, all you saw was -- I mean, you couldn't walk</p> <p>into a restaurant here in Amarillo on this side of town --</p> <p>because I used to work four years here in Amarillo after,</p> <p>you know, this deal, and I would go into any restaurant</p> <p>and it was like I saw that thing, you know, Swift hiring,</p> <p>on television, radio, billboards. I mean, it was just</p> <p>everywhere. I mean, it was like everywhere I walked in,</p> <p>that's all I saw, Swift, Swift, Swift. But you never saw</p> <p>it before, you know.</p> <p>So if Swift didn't know about all these</p> <p>illegals coming in, why didn't they put them billboards</p> <p>out there before, you know, all these posted things? Why</p> <p>did they put it afterwards? Because they knew all these</p> <p>people that were coming in. They knew who was coming in.</p> <p>They knew they had people that were going to come in. Why</p> <p>did they have to go put all that out? Because they knew</p> <p>all these people that were coming in. They didn't have to</p> <p>go post nothing out. They had people at the flea market</p> <p>even after that, I mean, trying to get everybody they</p> <p>could in to work for them.</p> <p>Q. And the time that you're talking about was the</p> <p>raids --</p> <p>A. After --</p> <p>Q. I'll just tell you they were in December of</p> <p>2006.</p>

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1 A. Right. This was afterwards, uh-huh.

2 Q. And you're saying that before December of
3 2006 --

4 A. There was nothing, nothing. That was just so
5 obvious that -- I mean, me as -- if it was my company or
6 something, I would be posting out even before that, you
7 know. But if I know I'm going to have all these people
8 coming in, why am I going to go post it? Why am I going
9 to waste my money on all this stuff, you know the -- I
10 mean, that's just so obvious right there. That's just
11 where Swift made it so obvious that they knew about it.
12 Maybe -- I mean, everybody has got their own opinion.

13 Q. Well, let me ask you this. You mentioned this
14 woman who did not work for Swift who has gone to jail for
15 providing false documents to employees.

16 A. Right.

17 Q. Are you aware of any evidence that Swift
18 employees provided -- themselves provided false documents
19 to any illegal immigrants?

20 A. What do you mean? Like --

21 Q. In other words, that there was somebody at Swift
22 who was making up false Social Security cards and
23 providing them to new employees, like the Guatemalans.

24 A. It wasn't somebody from there, but it was
25 somebody from -- it was from Kansas that was doing that,

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1 and they were making the false cards and everything for
2 them. But I just -- I can't remember who that person's
3 name is.

4 Q. Okay.

5 A. I mean, I was doing a lot of checking around
6 when -- after they did this to us. I was checking around
7 to see what kind of information I could get and -- I
8 mean -- I mean, I wanted to get whatever I could.

9 Q. But you weren't able to find anything other than
10 this Kansas person?

11 A. Well, just this lady that I told you that --
12 from Amarillo.

13 Q. Okay.

14 A. And she said there was somebody from Cactus that
15 would put these people through through Swift and, you
16 know, help them out --

17 Q. Okay.

18 A. -- and just --

19 Q. You mentioned somebody from -- did you -- maybe
20 I misunderstood. Was it somebody in Cactus or somebody in
21 Kansas?

22 A. No, in Kansas, there was somebody making false
23 IDs for them -- I mean, false socials for them.

24 Q. And was it your understanding --

25 A. In Kansas.

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Q. -- that this was a Swift employee, or was it
somebody else?

A. No, somebody else. It wasn't from Swift. Now,
the Cactus person that I'm talking about, I think he had
communication with somebody there inside Swift that was
helping them bring in these people.

Q. And I can't remember if I asked you, but do you
remember the name of the person in Cactus that had false
documents?

MS. CANO: I'm sorry. Say that again.

MR. EBERLE: I was asking her whether she
knows the name of this person --

Q. It was a man, I take it?

A. It was a man.

Q. Do you remember his name?

A. Will you hand me my purse. I don't know if I've
still got his -- because I took a bunch of stuff out of my
purse. I just tried to get some quick information from
her, whatever I could get. If I could remember her phone
number, I could call her, but I just don't remember.

MR. EBERLE: We can probably just go off
the record for a second. That's fine.

(Discussion off the record.)

Q. (BY MR. EBERLE) We discussed off the record
that you were going to try to see what information you

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have about this person --

A. Yes.

Q. -- in Cactus.

A. Yes.

Q. And I'll follow up with Claudia about that.

A. Okay.

MS. CANO: Okay.

Q. Just to kind of circle back so that I haven't
missed anything, as I understand it, you've identified
three people, none of whom were Swift employees, one in
Amarillo, one in Cactus and one in Kansas --

A. Kansas.

Q. -- and those people you believe provided false
documents to new employees at the Cactus plant?

A. Yes.

Q. But you're not aware of anybody -- or don't have
any evidence of anybody at Swift who themselves provided
these false documents directly to the new employees?

A. I don't. The person that would -- knew the
communication he had with that inside Swift employee is a
person from Cactus, because he's the one that would bring
in the people for them from there.

Q. Okay. And this is the one whose
identification --

A. Uh-huh.

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Q. -- you're trying to track down for me?

A. Uh-huh. Yes, sir.

Q. I think I'll come back to that in a minute. But before I forget, you worked only at the Swift plant -- or at the Cactus plant for Swift, correct?

A. Yes, sir.

Q. Did you ever work at any of the other plants for Swift?

A. No, sir.

Q. Do you have any information about illegal immigrants that may have been hired by Swift at any of the other plants?

A. No, sir.

Q. When you were working for Swift, were there any immigration raids by government authorities that took place at the Cactus plant?

A. Not while I was working. I've known of some before, but not, you know, when I was there.

Q. And you started there -- when was it? 19 --

A. '88.

Q. So between 1988 and October of 2002, you weren't aware of any immigration raids by government authorities at the Cactus plant?

A. No, sir.

Q. During that time frame from 1988 to October of

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2002, were you aware of any immigration raids that had been planned for the Cactus plant that never took place?

A. No, sir. Between '88 and 2002?

Q. Correct.

A. No.

Q. And between 1988 and October of 2002, are you aware of any information that Swift provided illegal immigrants working at the Cactus plant with advice on how to avoid being detected by government authorities?

A. I mean, just word out that -- from other people that they would just, you know, tell them to, you know, take off running or find a place to hide or -- you know, if anything like that happened. But that was just words out there, you know, from people that worked out there.

Because there was a lady from Guatemala, but I don't remember her name, but she worked out there and she would always tell me, you know, I hope Immigration never comes in, I hope Immigration never comes in. And I said, well, they haven't in years. I said, I don't see why they would come now. And she said, because -- you know, they just told us, you know, if anything like that happened, just to take off running.

Q. Okay.

A. But that was all she said.

Q. And did she say who told her that, I mean

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specifically?

A. It was just a supervisor from -- she worked in fab, on the fab floor.

Q. And do you remember what time frame that conversation took place?

A. Exactly what time?

Q. I mean, approximately what year that might have been.

A. Oh, that was like in -- because she was one of the Kansas ladies that came. Two thousand and -- it was a little bit before we were -- that we had been terminated.

Q. So sometime in 2002?

A. Around 2002.

Q. And while you were working for Swift before you left in October of 2002, did you believe that your hourly pay was lower because Swift had hired illegal immigrants at the Cactus plant?

A. When I feel that they lowered the pay, in the fact that -- I mean, I know that they lowered it is they send out a deal from Social Security all the time on, you know, how much you make in that year and all that. Well, I noticed there was a real, I mean, difference.

And I had been talking to people to try to remember this, the people who had been there for years, if they remember, because, I mean, I remember when my

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husband -- I was dating him at the time. He said they had cut down on their pay. And during that time, they were hiring people from Mexico that were illegals, but it wasn't as bad as what they were -- and so obvious, let's put it that way, like it was in this 2000 year, from 2000 --

Q. Okay. You said during that time when Swift was hiring some people from Mexico. When was that? Was that in the 1990s sometime?

A. No, that was back in 1980-something, in the '80s. They were already hiring illegals out there, but, I mean, you couldn't tell who they were because there were people from Mexico. I mean, most of them, you know, you would think that they would have papers. But when you bring in so many Guatemalans all at one time and -- I mean, you -- it's so obvious.

Q. Okay. So it was your belief that the hourly rates being paid were lower even as of the 1980s --

A. Yes.

Q. -- because Swift was hiring illegal immigrants?

A. Right.

Q. And it sounds like, and correct me if I'm wrong, but that by 2000 and 2001 when Swift was hiring the Guatemalans, that you believed that your hourly pay was lower as a result of those people being hired?

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1 A. No, they were paying them less -- this is my
2 understanding, they were paying them less, but -- they
3 would pay them the right amount, but then they would take
4 out from -- after they cashed their check, they would take
5 the amount off of the, you know -- and this was like
6 supervisors, superintendents and nobody -- and somebody
7 else, you know, that worked out there.

8 Q. Okay. I guess I'm not understanding. So they
9 would -- let's say they were supposed to be paid \$10 an
10 hour. That's what they would be getting paid --

11 A. Right. And then after they got their check
12 cashed, then it would -- you know, they would turn around
13 and hand over money to the, I guess, the higher guys out
14 there.

15 Q. Okay. And so it was your belief that, what,
16 essentially these illegal Guatemalans were paying money to
17 some Swift employees --

18 A. To work.

19 Q. -- to work there?

20 A. Yes.

21 Q. Okay. And what evidence do you have of that?

22 A. I don't, and I probably wouldn't. The only one
23 that could tell you that is somebody that it happened to.
24 I'm sure that they would be able to say something like
25 that, you know. But that's -- that was a good way of

A. That's what I feel, because to me, I mean -- and
there was a greater chance when they started hiring all
these illegals more, you know, that they were getting more
people in, there was a greater chance. Because even the
pay now is up higher since they had that raid. The pay
went way up higher. That should have been paid a long
time ago, I mean, that kind of money, not after that raid,
you know.

Q. Okay. Let me just back up, though. We'll get
to the post raid stuff in a second. But just backing
up -- so during the 2000 and 2001 time frame, you felt
that you should have been paid more for your work at the
Cactus plant and that the reason you hadn't been was
because Swift had hired illegal immigrants?

A. Right.

Q. And then is your source of information -- strike
that.

What is your source of information about
the pay going up after you left Swift and after the raids?

A. Because my husband works out there.

Q. Okay.

A. I noticed a way much difference on his paycheck,
his hour -- hourly pay.

Q. Hourly pay is higher?

A. Yes. I work for the Valero company, and I'm

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1 hiding all this stuff, you know, because it wouldn't look
2 so obvious, you know, that they were paying them less. It
3 was coming out of their check afterwards, you know, not
4 before.

5 Q. Okay. And so -- but just to confirm this, you
6 don't have any specific evidence --

7 A. I don't.

8 Q. -- showing that?

9 A. I don't.

10 Q. And just backing up to my question, which was,
11 while you were still working for Swift in 2000 and 2001,
12 did you think that your hourly pay was lower because Swift
13 had hired illegal immigrants at the Cactus plant?

14 MS. CANO: Do you understand the question?

15 A. Yeah. Now I do, uh-huh. No.

16 Q. And what you're saying is that it was --

17 A. I just feel like we didn't have enough pay.
18 That's what we didn't have.

19 Q. You felt you should have been paid more?

20 A. More for the work that we were doing. I felt --
21 or not just me, but everybody else. You know, we should
22 have been getting paid more for that type of work.

23 Q. Well, did you believe that you weren't getting
24 paid more because Swift had hired illegal immigrants at
25 the Cactus plant?

getting -- I started out at \$11 an hour, not even what I
was making on my last day that I was out at Swift, and I'm
not even working as hard as I was out here at Swift. But
Valero doesn't hire illegals, so --

Q. Let me back up again to the 2000 and 2001 time
frame, while you were working for Swift. Did you have any
discussions with any of your co-workers at Swift about
their pay being lower because Swift had hired illegal
immigrants?

A. No, sir.

Q. And during this 2000 and 2001 time frame, did
you believe that your -- you should have been paid more
and your hourly pay was actually lower because Swift had
provided any false documents to illegal immigrants?

A. No, sir.

Q. I think you've given me some information about
after you left Swift in October of 2002, but it sounds
like you did -- tried to do some investigation to
determine information about illegal immigrants at the
plant; is that right?

A. Yes.

Q. And what did you do?

A. I would just go around asking people that I
would think that, you know -- in fact, I knew this lady
from Amarillo, you know. I already knew her before. She

<p>66</p> <p>1 was my mother-in-law's next-door neighbor at one time, and</p> <p>2 that's how I met her. And I knew she was selling</p> <p>3 documents, but I didn't know she was selling them to the</p> <p>4 people from Swift, you know, until all this happened, you</p> <p>5 know, finding out all this information, you know, that she</p> <p>6 was selling them to a lot of people out there.</p> <p>7 Q. Did you actually talk to her in person?</p> <p>8 A. Yes, I did.</p> <p>9 Q. Okay. And did she tell you that she was</p> <p>10 providing these false documents?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And those were used by people who were working</p> <p>13 at Swift?</p> <p>14 A. Right.</p> <p>15 Q. And what was the approximate time frame? It</p> <p>16 sounds like this was before 2005 -- well, yeah, before</p> <p>17 2005, because that's about the time she went to jail.</p> <p>18 A. Yeah. That was -- well, I talked to her before</p> <p>19 and after she got out, too, because I wanted to get that</p> <p>20 information, you know, if she knew anybody else that was</p> <p>21 involved, and that was after she got out of prison.</p> <p>22 But before that time, you know, I knew she</p> <p>23 was selling documents, but like I said, I didn't know at</p> <p>24 the time until all this happened and we were in a</p> <p>25 conversation, me and her one time, and we were talking</p>	<p>68</p> <p>Q. Okay. So just so I'm clear, she never indicated</p> <p>that she had provided false documents to employees at</p> <p>Swift plants other than in Cactus?</p> <p>A. In Cactus, right.</p> <p>Q. It was only in Cactus?</p> <p>A. Cactus, that she told me about, yes.</p> <p>Q. After you left working for Swift in October of</p> <p>2002, did you become aware of any information that Swift</p> <p>was hiring illegal immigrants at any of its plants other</p> <p>than in Cactus?</p> <p>A. No.</p> <p>Q. And did you become aware of any information --</p> <p>A. I mean, I wasn't worried about everybody else --</p> <p>I mean, the other plants. I was worried about this one</p> <p>that fired me.</p> <p>Q. And you weren't aware, I take it, of any</p> <p>information that Swift was providing any false documents</p> <p>to employees at other plants besides --</p> <p>A. No, sir.</p> <p>Q. -- at Cactus?</p> <p>MR. EBERLE: Why we don't take another</p> <p>short break and I'll see what else I have left.</p> <p>(Recess from 1:40 p.m. to 1:47 p.m.)</p> <p>MR. EBERLE: I will pass the witness. I</p> <p>have no further questions.</p>
<p>67</p> <p>1 about that and she said, yeah, you know, I'm -- you know,</p> <p>2 that she was selling papers and she had to make trips to</p> <p>3 Cactus to go take papers to people. So she was constantly</p> <p>4 going to Dumas and Cactus to take papers.</p> <p>5 Q. Did she tell you where she herself got those</p> <p>6 papers?</p> <p>7 A. She would go to Laredo, that I know of, Laredo</p> <p>8 and -- I don't know which other places. I know Laredo was</p> <p>9 one of the main places that she talked about.</p> <p>10 Q. Did she tell you that she had supplied false</p> <p>11 documents to employees at any other Swift plants besides</p> <p>12 the Cactus one?</p> <p>13 A. I'm thinking that she said in Guymon, I think,</p> <p>14 at that pig plant they have there, Seaboard.</p> <p>15 Q. Is that in Kansas or --</p> <p>16 A. No, in Oklahoma, Guymon.</p> <p>17 Q. I'm not sure that that's a Swift plant.</p> <p>18 A. No, it's not. Oh, you're talking about Swift</p> <p>19 plants?</p> <p>20 Q. Yes.</p> <p>21 A. No. No. That I know of, no.</p> <p>22 Q. Okay.</p> <p>23 A. She didn't ever mention -- she just -- it was</p> <p>24 really mainly around this close area that she would do</p> <p>25 that.</p>	<p>69</p> <p>MS. CANO: We'll reserve our questions.</p> <p>(End of Proceedings.)</p>